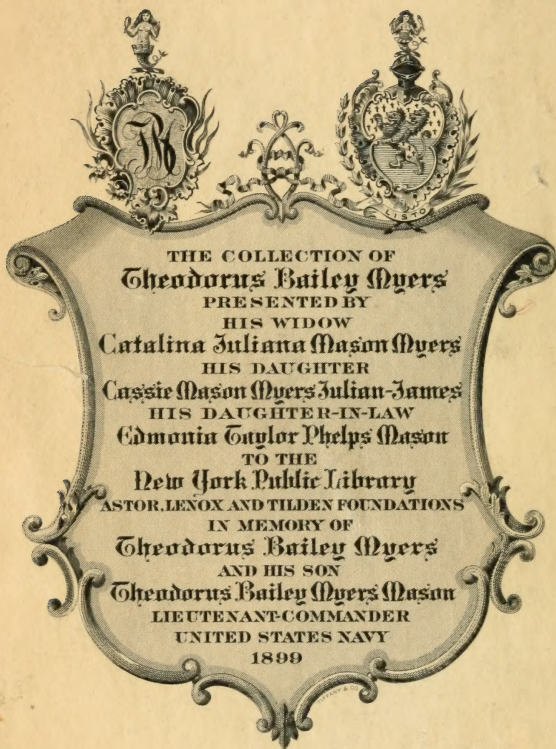


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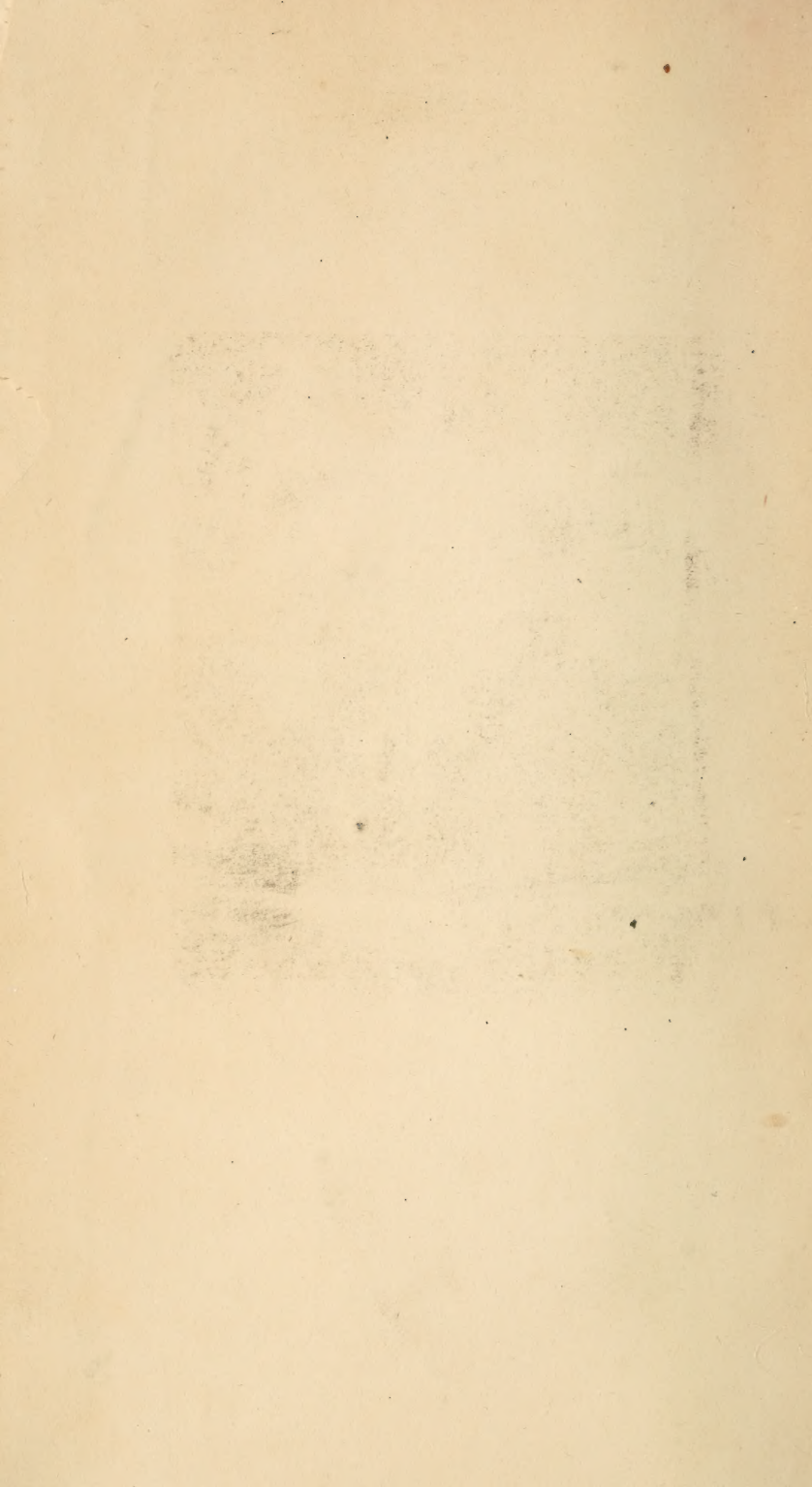


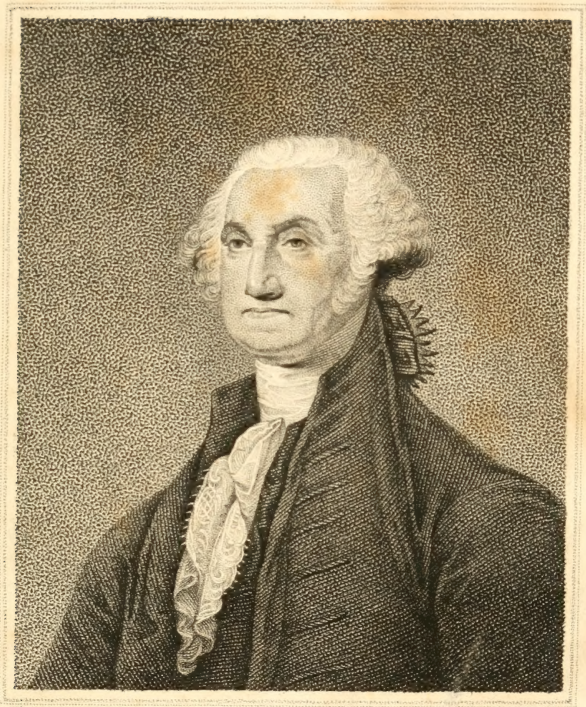


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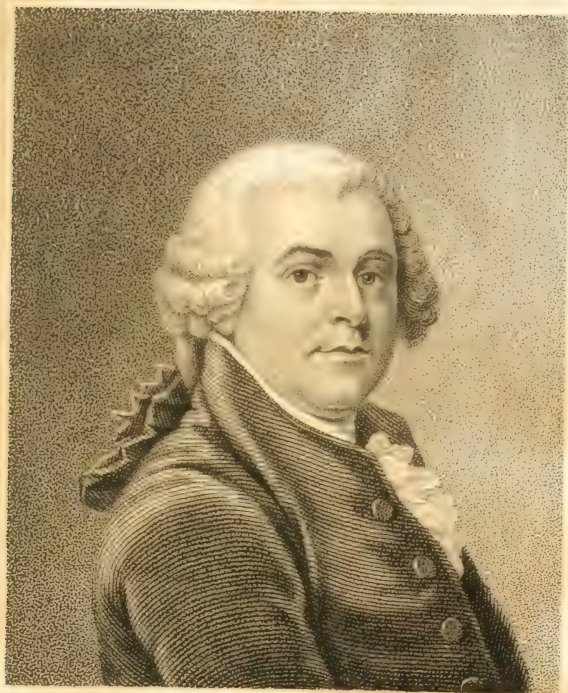
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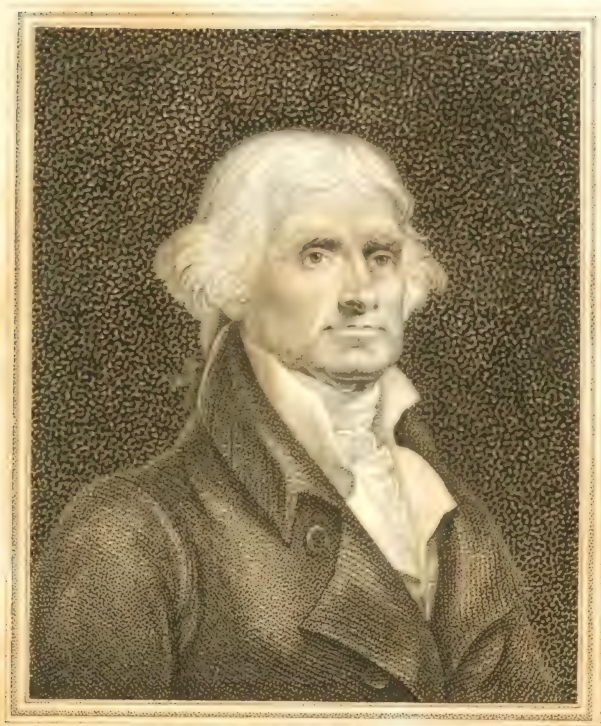
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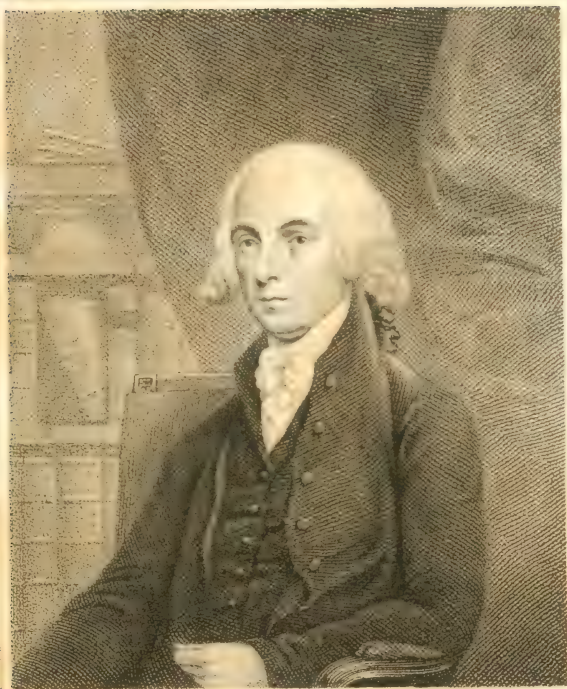


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STATE PAPERS

AND



PUBLICK DOCUMENTS

OF

THE UNITED STATES.

FROM THE

ACCESSION OF GEORGE WASHINGTON TO THE PRESIDENCY, EXHIBITING A COMPLETE VIEW OF OUR FOREIGN RELATIONS SINCE THAT TIME.

IN TEN VOLUMES.—VOL. X.

---

SECOND EDITION.

PUBLISHED UNDER THE PATRONAGE OF CONGRESS

---

INCLUDING

CONFIDENTIAL DOCUMENTS,

NOW FIRST PUBLISHED.

BOSTON:

PRINTED AND PUBLISHED BY T. B. WAIT AND SONS.  
1817.

DISTRICT OF MASSACHUSETTS, TO WIT :

DISTRICT CLERK'S OFFICE.

BE it remembered, that on the twenty-eighth day of October, A. D. 1816, and in the forty-first year of the Independence of the United States of America, Thomas B. Wait and Sons, of the said district, have deposited in this office the title of a book, the right whereof they claim as proprietors, in the words following, to wit :

"State Papers and Publick Documents of the United States, from the accession of George Washington to the Presidency, exhibiting a complete view of our Foreign Relations since that time. In ten volumes. Second edition. Published under the patronage of Congress. Including Confidential Documents, now first published."

In conformity to the act of the Congress of the United States, entitled, "An act for the encouragement of learning, by securing the copies of Maps, Charts, and Books, to the authors and proprietors of such copies, during the times therein mentioned : " and also to an act, entitled, "An act supplementary to an act, entitled, An act for the encouragement of learning, by securing the copies of Maps, Charts, and Books, to the authors and proprietors of such copies during the times therein mentioned ; and extending the benefits thereof to the arts of Designing, Engraving and Etching Historical, and other Prints."

JNO. W. DAVIS,

Clerk of the District of Massachusetts.



5750

# CONFIDENTIAL STATE PAPERS.

PUBLISHED BY THE AUTHORITY OF THE SENATE OF THE  
UNITED STATES.



## ADVERTISEMENT.

WHEN the publishers petitioned Congress that the Secretary of State might be authorized to subscribe for their second edition of State Papers, they also asked permission to publish such Confidential Documents as, from lapse of time or any other cause, no longer required secrecy.

Their petition was committed to the Hon. Messrs. King, Varnum and Fromentin, who made the following report :—

“ IN SENATE OF THE UNITED STATES, APRIL 1, 1816.

“ The committee to whom was referred the memorial of Thomas B. Wait and Sons, of Boston, proposing to publish an improved edition of State Papers of the United States, with instructions to inquire into the expediency of publishing certain documents which have heretofore been deemed confidential...REPORT, That the committee have examined the files of confidential documents in the office of the Secretary of Senate, from the commencement of the government to this time ; and have considered the various subjects which they embrace, composed, for the most part, of information which the Executive have, from time to time, communicated to the Senate, relative to the intercourse and negotiations with foreign powers ; much of which, they are of opinion, should remain *confidential*, as the subject matter still remains unadjusted. The documents enumerated in the subjoined resolution may, in the opinion of the committee, be published without publick detriment ; the committee therefore submit the following resolution :

“ RESOLVED, That the injunction of secrecy be removed from the following documents remaining in the office of the Secretary of the Senate :

[Here follows a list of the documents contained in this volume.]

“ And that copies of the said messages and documents be prepared, under the direction of the Secretary of the Senate, and delivered to T. B. Wait and Sons.”

That the committee might be enabled to make the selection contained in their report, it was necessary that a list should be made out of *all* the confidential papers which had been communicated to the Senate : the publishers, therefore, have it in their power to gra-

tify their subscribers with the dates and general subjects of those which are *not* published. See the messages, &c. as chronologically arranged and published in this volume.

The loss of papers, proposed to be published, but which could not be found, is attributed to the destruction, or precipitate removal, of the publick records in August, 1814.

One instance occurred where a number of papers were missing, and for which we were referred from the office of the Secretary of the Senate to the archives of our own state. This was the message of February 9, 1790, transmitting documents relative to the eastern boundary of the United States. By the particular attention of A. Bradford, Esq. secretary of this commonwealth, these documents were all obtained except *one*, Mitchell's Plan, which appears by the letter from President Adams, page 15, to be of high importance.—He says, “we had before us, through the whole negotiation, a variety of maps, but it was Mitchell's map upon which was marked out the whole of the boundary lines of the United States,” &c. Had it been possible to find this “map,” or “plan,” it should have been published, although it would have added greatly to the expense of the work. It may not yet be too late. Should a third edition be called for, which is very probable, as the second is entirely sold, even before its publication is completed, this map, if it can be found, shall be published; when subscribers to the first and second edition may be supplied with copies.

From the known fidelity of the gentlemen in the office of the Secretary of the Senate, who prepared the copy of this volume, and the care and attention which have been observed in following them, there is reason to hope that no essential errors have escaped unnoticed.

The Engravings are executed by the first artists in this country, and three of them from the most accurate likenesses, viz. those of Presidents Washington, Jefferson and Madison. Of President Adams a good likeness was procured, but it is believed the *most* accurate is deposited in the Athenæum in this town, of which a copy could not be obtained.

While we congratulate the publick on the very *complete* view which is now given of the foreign relations of the United States, we cannot withhold our respectful acknowledgments to the Committee, who, in examining and arranging the papers which compose this volume, devoted many of those hours which should have been given to relaxation from other important and arduous employments.

Boston, March, 1817.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO EASTERN BOUNDARY ON BRITISH TERRITORY.  
FEB. 9, 1790.

You will perceive from the papers herewith delivered, and which are enumerated in the annexed list, that a difference subsists between Great Britain and the United States relative to the boundary line between our eastern and their territories. A plan for deciding this difference was laid before the late Congress; and whether that or some other plan of a like kind would not now be eligible, is submitted to your consideration.

In my opinion it is desirable that all questions between this and other nations, be speedily and amicably settled; and in this instance I think it advisable to postpone any negotiations on the subject, until I shall be informed of the result of your deliberations, and receive your advice as to the propositions most proper to be offered on the part of the United States.

As I am taking measures for learning the intentions of Great Britain respecting the further detention of our posts, &c. I am the more solicitous that the business now submitted to you, may be prepared for negotiation, as soon as the other important affairs which engage your attention will permit.

GEORGE WASHINGTON.

*A List of Papers delivered to the Senate with the foregoing Message, in the Bundle marked A.*

No. 1. Resolve of the legislature of Massachusetts, dated July 6 and 7, 1784.

No. 2. Deposition of John Mitchell, dated Oct. 9, 1784.

No. 3. Report of generals Lincoln and Knox to the governor of Massachusetts, dated Oct. 19, 1784.

No. 4. Extract of a letter from the hon. John Adams to lieut. governour Cushing, dated Oct. 25, 1784.

No. 5. Letter from governour Hancock to governour Parr, of Nova Scotia, dated Nov. 12, 1784.

No. 6. Letter from governour Parr to governour Hancock, dated Dec. 7, 1784.

No. 7. Letter from Rufus Putnam to the committee of Massachusetts, dated Dec. 27, 1784.

No. 8. Report of the secretary for foreign affairs respecting eastern boundary, dated April 21, 1785.

No. 9. Deposition of Nathan Jones, dated March 17, 1785.

No. 10. Copy of a letter from governour Carlton to governour Hancock, dated June 21, 1785.

No. 11. Letter from James Avery to governour Bowdoin, dated August 23, 1785.

No. 12. Advice of the council of the commonwealth of Massachusetts to the governour, dated Sept. 9, 1785.

No. 13. Letter from governour Bowdoin to governour Carlton, dated Sept. 9, 1785.

No. 14. Report of the secretary for foreign affairs, dated Sept. 22, 1785.

No. 15. Resolution of Congress, dated Oct. 13, 1785.

No. 16. Copy of a letter from the hon. John Jay to the hon. John Adams, dated Nov. 1, 1785.

*List of Papers delivered to the Senate with the foregoing Message in the Bundle marked B.*

No. 1. The petition of James Boyd to the President, the Senate and the House of Representatives of the United States of America.

No. 2. Copy of the proceedings of the legislature of the commonwealth of Massachusetts on the petition of James Boyd, and a letter of instruction to the delegates of that commonwealth in Congress, dated Nov. 10, 1786.

No. 3. Copy of a declaration of John Mitchell, relative to a survey made by him in the year 1764, to ascertain the river known by the name of St. Croix.

No. 4. Copy of a declaration of Nathan Jones, to the same effect as the preceding.

No. 5. Copy of a plan delivered to capt. John Mitchell, surveyor, by his excellency Francis Barnard, Esq. then governour of the province of the Massachusetts Bay, for the direction of the said surveyor.

No. 6. Copy of remarks drawn up by C. Morris, surveyor general, respecting the western limits of New Brunswick, and the property of the islands in the bay of Passamaquoddy.

No. 7. Extract of a letter from his excellency John Adams, Esq. to his honour lieutenant governour Cushing, dated Auteuil, near Paris, Oct. 25, 1784.

No. 8. Extract from the journals of Congress, May 20, 1785.

No. 9. Extracts from sundry publications respecting the boundaries of Nova Scotia.

### A. No. 1.

#### COMMONWEALTH OF MASSACHUSETTS.

*Resolve for appointing Agents to repair to the eastern part of this State, to inform themselves of Encroachments made by British Subjects; and instructing them how to proceed, July 7, 1784.*

WHEREAS the United States in Congress assembled, on the twenty-sixth day of January last past, recommended to the governour of this commonwealth to cause inquiry to be made whether encroachments had actually been made on the territories of this state by the subjects of his Britannick majesty, from the government of Nova Scotia: and it appearing that great encroachments have been made on the said territories:

*Resolved*, That three gentlemen be appointed by the general court, whose duty and business it shall be to repair to the eastern part of this state, and there inform themselves what encroachments have been made by his said Britannick majesty's subjects, on the territories of this commonwealth; and if they find such have been made, that they make representation thereof to the governour of Nova Scotia, and request him in a friendly manner, and as a proof of that disposition for peace and harmony which should subsist between neighbouring states, to recall from off the said territory the said subjects of his Britannick majesty so found to have encroached thereon; that they receive any communications on the said subject which may be made by the said governour of Nova Scotia, and make report of their proceedings herein to the general court.

*Resolved*, That his excellency the governour make a commission under the seal of the commonwealth, to the agents to be appointed as aforesaid to transact the said

business, and transmit to the said governour of Nova Scotia a copy of these resolves.

A. No. 2.

THE subscriber, an inhabitant of Chester, in the state of New Hampshire, voluntarily makes the following declaration, to wit: That I was employed by his excellency Francis Bernard, Esq. governour of the province of Massachusetts Bay, in April, 1764, as a surveyor, in company with Mr. Israel Jones, as my deputy, Mr. Nathan Jones, as commanding officer of a party of troops, and captain Fletcher as Indian interpreter, to repair to the bay of Passamaquoddy, to assemble the Indians usually residing there, and from them to ascertain the river known by the name of the St. Croix. We accordingly assembled upwards of forty of the principal Indians upon an island then called L'Atereel in the said bay of Passamaquoddy. After having fully and freely conversed with them, upon the subject of our mission, the chief commissioned three Indians to show us the said river St. Croix, which is situated nearly six miles north, and about three degrees east of harbour L'Tete, and east north east of the bay or river Schoodick, and distant from it about nine miles upon a right line. The aforesaid three Indians, after having shewn us the river, and being duly informed of the nature and importance of an oath, did in a solemn manner depose to the truth of their information respecting the identity of the said river St. Croix, and that it was the ancient and only river known amongst them by that name. We proceeded conformably to this information in our surveys; and in August following I delivered to governour Bernard, three plans of the said river St. Croix, and the said bay of Passamaquoddy.

JOHN MITCHELL, Surveyor.

Suffolk, ss.

*Boston, October 9, 1784.*

The above named John Mitchell personally appeared, and on solemn oath declared that the above by him subscribed is true.

Before me, EZEKIEL PRICE, Justice Peace.  
True copy.—Attest,

JOHN AVERY, JUN. Secretary.

## A. No. 3.

*Boston, October 19, 1784.*

SIR,—In obedience to your excellency's commission, bearing date July 12, 1784, the subscribers, two of the commissioners named therein, proceeded the latter end of August to the bay of Passamaquoddy, and there endeavoured to inform themselves of what encroachments had been made by the subjects of his Britannick majesty on the territories of this commonwealth.

They beg leave to inform your excellency that a very considerable number of British subjects are settled at a place called St. Andrews, on the eastern bank of the river Schoodick, which in the opinion of your commissioners is clearly within the limits of this state.

By your excellency's leave they will recite a short state of facts on which this opinion was formed.

There are three very considerable rivers which empty themselves into the bay of Passamaquoddy, which is from five to seven leagues wide. The eastern river falls into the bay about a league from the head of it, and perpendicular to the eastern side; the middle river falls into the bay far on the westerly side of the head of it, and in a direction parallel therewith; the western river falls into the bay about six leagues from the head of it, on the westerly side, and nearly perpendicular to it: all of which, in late British maps, are called St. Croix. The first is, by the Indians, called Maggadava, the second Schoodick, and the third Cobbscook.

From every information the subscribers could obtain, on an inquiry of the Indians and others, the eastern river was the original St. Croix. This is about three leagues east of St. Andrews, where the British inhabitants have made a settlement. Soon after the subscribers received their commission they wrote to Mr. Jay, requesting him to give them information whether the commissioners for negotiating the peace confined themselves, in tracing the boundaries of the United States, to any particular map, and if any one, to what. Since their return they received his answer, mentioning that Mitchell's map was the only one that the commissioners used, and on that they traced the boundaries agreed to. This in the opinion of the subscribers is a fact which must facilitate an equitable decision of the matter; though Mitchell's map is not accurate, at least in the description of the eastern part of this state. He has described but two, instead of three rivers which empty themselves into the bay of Passamaquoddy.

quoddy. The eastern of those he has placed at the head of the bay, near the centre of it, and calls it St. Croix. The western river he has called by the name of Passamaquoddy. Hence it is plain, that though the map is inaccurate, yet the eastern river, which empties itself into the bay, is, in the opinion of Mitchell, the St. Croix. This opinion is further supported by the deposition of Mr. Mitchell accompanying this report. The subscribers are informed that the Mr. Jones, mentioned in the deposition, is soon expected in this town, who will depose the same facts.

The subscribers further represent, that they find in the maps of a quarto volume published in Paris in 1744, from Charlevoix's voyage to North America made in 1604, two rivers delineated at the head of the bay of Passamaquoddy, the western of which is called Passamaquoddy, the eastern St. Croix.

Although the mouth of the river St. Croix is but little more than three leagues east of the banks of the Schoodick, on which the British subjects are settled, yet from the different courses of the two rivers the source of the western branch of the Schoodick is nearly an hundred miles from the source of the St. Croix.

From a view of the rapid improvements made by the British subjects on the banks of the Schoodick, the subscribers could not but suppose that the idea of their removal would always embarrass a settlement of the line agreeably to the treaty of peace. They therefore have thought it their duty to suggest the propriety of quieting such British settlers in their possessions who are desirous of becoming inhabitants of the United States. That the general court might have time to take this matter into their consideration, they have deferred writing to the governour of Nova Scotia, though they could not have done this until within a few days past from the necessary delays which have attended the procuring the evidence relative to the ancient St. Croix. Want of health prevented the attendance of Mr. Partridge.

We have the honour to be, sir, &c.

B. LINCOLN.  
H. KNOX.

True copy. Attest.

JOHN AVERY, JUN. Secretary.

## A. No. 4.

*Extract of a Letter from His Excellency John Adams, Esq. to His Honour Lieutenant Governour Cushing. Auteuil, near Paris, October 25, 1784.*

In writing upon the subject of the line between Massachusetts and Nova Scotia he observes as follows :

“ We had before us, through the whole negotiation, a variety of maps, but it was Mitchell’s map upon which was marked out the whole of the boundary lines of the United States ; and the river St. Croix, which we fixed on, was upon that map the nearest river to St. Johns ; so that in all equity, good conscience, and honour, the river next to St. Johns should be the boundary. I am glad the general court are taking early measures, and hope they will pursue them steadily until the point is settled, which it may be now, amicably, if neglected long it may be more difficult.”

Attest, JOHN AVERY, Jun. Secretary.

## A. No. 5.

*Boston, November 12, 1784.*

SIR,—I have the honour to enclose to your excellency a resolution and proclamation of Congress respecting the boundary line at the eastern part of this commonwealth ; and am to inform you, that agreeably to the said resolution an inquiry has been made by a respectable committee appointed by this government for that purpose, who have reported, that upon a most careful examination of the evidence respecting the ancient boundary between Nova Scotia and this state, they found the most easterly of the three rivers which empty themselves into the bay of Passamaquoddy to be the ancient line, and now the boundary established by the late treaty so happily concluded between the crown of Great Britain and these States. The committee also report, that the subjects of his Britannick majesty have made encroachments upon the territory of this commonwealth, a large number of whom are now possessing themselves of lands on the western side of the said river.

The government of this state, sir, is no less desirous than the United States in Congress assembled of cultivating that peace and harmony which I hope will ever subsist between the citizens of the States and the subjects of his majesty :

Wherefore, in pursuance of the resolution of Congress, I am to request your excellency will be pleased to recall from off the said territory those subjects of his majesty who have removed themselves from his dominions, and planted themselves within this commonwealth.

I shall be always ready to give immediate attention to such communications as your excellency shall be pleased to make upon this or any other subject.

I have the honour to be, &c.

JOHN HANCOCK.

I had the honour of a verbal message from your excellency by Mr. Gregory Townsend, respecting the probate papers in the hands of Mr. Hutchinson at Halifax, that they were packing up and would be sent by the first opportunity. I have since received no tidings of them. I take the liberty to request your excellency's kind interposition, that they may be forwarded before the bad season comes on, more especially as they are papers of great consequence, and are much wanted.

His Excellency John Parr, Esq.

Governour and Commander in Chief of the  
Province of Nova Scotia, at Halifax.

A. No. 6.

*Halifax, December 7, 1784.*

SIR,—I had the honour of your letter dated 12th November, enclosing a copy of a resolution of Congress 29th January last, with a proclamation dated 14th of the same month; all which I have forwarded to the governour of New Brunswick, within whose government are the lands in dispute; and I have transmitted copies of them to lord Sidney, one of his majesty's principal secretaries of state.

I have the honour to be, &c.

J. PARR.

His Excellency John Hancock,

Governour of the State of Massachusetts.

A. No. 7.

*Rutland, December 27, 1784.*

GENTLEMEN,—As the plan I furnished you on my return from the eastern country was much more extensive than what

was barely necessary for the delineation of the lands which I surveyed for government, comprehending so much of the Passamaquoddy country as I thought sufficient to give a pretty clear idea of the grounds in dispute between this commonwealth and Nova Scotia respecting our eastern boundary, if it is not my duty as a servant of the publick, I ask their indulgence as a citizen, to mention several matters by way of information and explanation of my plan, and also to make a few observations on the respective claims of the two nations in that quarter.

From Mr. Jones, who is the principal surveyor employed by the British in that quarter since the peace took place, I learned that they consider the Schoodick as the St. Croix intended in the treaty; that they fix the mouth of that river at the Devil's Head, which you will see marked in township No. v in my plan and the bays of Schoodick, St. Andrews, Cobbscook, &c. &c. formerly comprehended under the general name of Passamaquoddy, they consider as arms of the sea, or parts of the bay of Fundy. Here then, say they, that is at the Devil's Head, the following description in the treaty begins, viz. "bounded east by a line to be drawn along the middle of the river St. Croix, from its mouth in the bay of Fundy to its source."

Again, a line drawn from the mouth of St. Croix, at Devil's Head, to the mouth of St. Mary's river, between Georgia and East Florida, they consider as a boundary, to the eastward of which we have no claim on the main land or among the islands, nor yet to the islands westward of such a line, except they lie within 20 leagues of the sea coast or main land, and have not been granted by the government of Nova Scotia. Again, in consequence of their claiming the Schoodick river for the St. Croix, all the lands to the eastward of it, as high as the first falls above Mill Island, marked in my plan, are surveyed and granted to the refugees, and others, after a judgment of escheat being passed on them; for they were formerly granted to others, as may be seen in the copy of the Halifax plan.

A straight line, says Mr. Jones, drawn from the Devil's Head to the mouth of St. Mary's river, as above mentioned, will fall on the sea coast or north shore of the bay of Fundy about the mouth of little Machias river. The direction of this line across my plan, is marked on the southern edge of it, and in consequence of their claiming such a line, not only all the islands in the bay of Passamaquoddy, whether granted before the peace, or since, they claim as theirs; but the

island of Grand Manan has been granted by the governour of Nova Scotia to certain proprietors; and on the same principle, a few days before I left the country, Mr. Jones began the survey of Seward's Neck.

Their settlements keep pretty equal pace with their surveys. The island of Grand Manan has several settlers on it already, as well as a number of smaller islands in the eastern part of Passamaquoddy Bay. The town of St. Andrews has between two and three hundred houses; and a town at present called Schoodick, near the head of navigation, has near one hundred houses; besides which there is a township at the head of Oak Bay granted to a company of associates, at the head of which is a Mr. Norwood from Cape Ann; another township, west of this, is surveyed for a company from Connecticut; and these companies obtain the same supplies of provision as the refugees do.

The reason why they have made no surveys on the main land between the Devil's Head and Pleasant Point, or on Moose Island, I presume is because they consider these lands as the property of sir Francis Bernard and his associates, and that no judgment of escheat respecting them has yet taken place.

Upon supposition that the Maggacadava river, or eastern St. Croix, from the falls makes a north course up to its source, and the river Schoodick does the same from the upper pond marked in my plan, then the tract of land, between the two rivers in dispute, will be in extent east and west nearly thirty-six miles, and by a London map published immediately after the peace, at least 120 miles north and south; so that the two rivers in all probability makes a difference of 120 townships of 6 miles square, within which there is no doubt a great quantity of good lands.

Again, to draw a line as they propose from the Devil's Head, will cut off at least a quantity of land equal to four or five townships of 6 miles square, besides the island of Grand Manan, and the small islands on the southern side of it, which are equal to three or four such townships together, with Moose Island and some others, whose quantities are marked in my plan or report. But besides the value of the lands cut off by this proposed line, it is well to consider that the remainder of the lands bordering on the Schoodick and Cobbscook rivers will be of little value to their owners if they have no communication with the sea but what depends on the courtesy of their British neighbours. The bay of Passamaquoddy at present affords great plenty of fish;

but if we are to possess no islands in that bay for curing them, it must prove very injurious to the subjects of America who are or may be employed in taking fish in that quarter. The island of Grand Manan has a good harbour towards the southeast part of it, and its southern shore is lined with a number of small islands, among which and in the vicinity of them great plenty of fish are taken; and the quality of the lands in Grand Manan and some of those smaller islands it is said are not inferior to those in the bay of Passamaquoddy; so that in respect of both farming and fishing these islands are of no small consequence.

But where the gentlemen of Nova Scotia have got the idea that the United States are bounded by a line drawn through the Atlantick ocean, from the mouth of St. Mary's river to the mouth of the St. Croix, is hard to conceive. For my own part I cannot find a single hint of such a boundary in all the treaty. Yet as absurd as this idea appears to be, not only Mr. Jones, and other refugees, are fallen into the mistake, but governour Parr must have done so too, or otherwise he would not have patented the island of Grand Manan; for as Mr. Jones told me it had never been granted before, it cannot now possibly belong to Nova Scotia, on any other principle but the establishment of such a line.

With respect to the islands the words of the treaty are these "comprehending all islands within 20 leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the *points* where the aforesaid boundary between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the bay of Fundy and the Atlantick ocean, excepting such islands, &c." Now whenever we can find that point, viz. the middle of the mouth of St. Croix river in the bay of Fundy, we are to draw a line due east from that spot, and all islands lying to the south of such line (and to the *north* of a line drawn due east from the middle of the mouth of St. Mary's river) and within 20 leagues of the shore or main lands of the United States, are by the treaty ceded to *them*, "except such islands as now are or heretofore have been within the limits of said province of Nova Scotia."—Now although at present it may be uncertain where to fix this point, viz. the middle of the mouth of the river St. Croix in the bay of Fundy, yet if we attend to the bearing of Grand Manan from west passage, as marked in my plan, it is certain that if you fix it any where about the bay of Passamaquoddy, a line drawn due east from thence will leave the whole island of

Grand Manan to the south; and this island, lying within much less than 20 leagues of the shore or main land, of course belongs to the United States: therefore governour Parr could never grant this island on any other principle but the one I have mentioned. The survey then made on Seward's Neck may be of a much more serious nature than was at first apprehended. If the Schoodick be the St. Croix intended in the treaty, I agree with the Nova Scotia gentlemen that the *real* mouth of that river is at the Devil's Head; but I by no means admit this to be the mouth intended by the commissioners who formed the treaty; for to draw a line due east from thence, not only crosses over a tract of main land before it touches the bay of Fundy *proper*, and would give every island in the bay of Passamaquoddy to the United States, but also all the islands along the shore to the eastward of Passamaquoddy for several leagues, which I can by no means suppose to be intended. And if we fix this point in the real mouth of the Maggacadava, or eastern St. Croix, we shall be involved in the same difficulties as before; so that which ever be the St. Croix intended, the point mentioned in the treaty must be in some other place than either of these I have mentioned; and the most probable opinion I have been able to form of the matter is, that the commissioners considered the whole bay of Passamaquoddy as the mouth of the river St. Croix; and that their real intention was, that a line beginning in the middle of this mouth, at a point where it joins the bay of Fundy, that is, on a line drawn from the west to the east cape or head land that forms the bay of Passamaquoddy, and from thence drawn through the middle of this bay or mouth and along the middle of the St. Croix to its source, &c. &c. should be our eastern boundary. My reasons for this opinion are these: from this point, wherever it is, a line is to be drawn due east, in order to determine what islands belong to the United States, and what not. Now, to draw such line from any point within the eastern cape, or head land, must cross over a tract of main land before it can touch the bay of Fundy *proper*, and involve us in all those difficulties respecting the islands near the eastern shore beyond Passamaquoddy which I have before mentioned. Again, the bay of Passamaquoddy is not mentioned in all the treaty, although noticed in Mitchell's map and all the maps of that country in the American atlas; wherefore the commissioners I conceive must consider it as a part of the bay of Fundy, or as the mouth of the St. Croix. We have already observed the absurdities of considering it as part of

the bay of Fundy, and fixing the mouth of the St. Croix at the Devil's Head, or any where else within the eastern cape : therefore they must consider it as the mouth of the St. Croix, or they could have no respect to it whatever. But if we carefully inspect Mitchell's map, and those in the American atlas, and compare these drafts with the whole description of our eastern boundary, my hypothesis appears to me the only intelligible and consistent one that can take place. For instance, if we consult Mitchell's map, a line drawn from the eastern and western capes, and bisected in the middle, strikes me as the identical point intended by the commissioners ; from hence a line drawn due east escapes the eastern cape, and determines to whom the islands belong in a rational and consistent manner ; from hence also a line drawn through the middle of the bay, and up the St. Croix, will make a pretty equal division of the bay of Passamaquoddy, and the islands therein, which it is natural to suppose was intended ; and if we inspect the several maps in the American atlas, the same ideas naturally arise ; and upon this principle most if not all Campobello, and a great part of Deer Island, belongs to us ; for the exceptions are respecting those islands only which are situate between lines drawn due east from certain points mentioned in the treaty.

With respect to the river intended by the commissioners, as the boundary between us and Nova Scotia, I think they alone must determine, for as they are entirely silent with respect to any description but the bare name of St. Croix, and as the Passamaquoddy and Maggacadava have both obtained that name, I think it impossible to determine which is the river intended by the description they have given us. It may, however, be well to observe, that the river Schoodick, or a river by the name of Schoodick, is not to be found in Mitchell's map, the American atlas, or any other draft that I have seen. Mitchell, at the head of his St. Croix, has a lake which he calls Koneaki. This is evidently an Indian name, but is not the name of either of the lakes or ponds on the Schoodick that I have heard of. Mr. Jeffers, author of the American atlas, in one of his maps, which he tells us is a new one made from various surveys, and corrected from divers astronomical observations, has given us two rivers by the name of St. Croix ; the eastern one he has contended as the dividing line between us and Nova Scotia, and is undoubtedly the Maggacadava ; the western river he calls Passamaquoddy or St. Croix. You will please to observe, that in my plan just above the last

falls I have marked the mouth of a river coming in on the right, nearly as large as the Schoodick, called by the natives Passamaquoddy. Now, if the treaty should be explained to intend the western St. Croix, yet the boundary line cannot follow the river now known by the name of the Schoodick to its source, but must be confined to the Passamaquoddy or eastern branch of the western St. Croix; for with what propriety they should claim beyond this, and follow the Schoodick (a river not known in any map) above the forks; I cannot conceive; and I think it highly probable that the name of Schoodick was by the natives originally confined to the western branch, and that the name of Passamaquoddy extended from the forks quite down to the bay of the same name; for otherwise there is no connection between the river and bay which bear the same name, and which probably were derived the one from the other, which is commonly if not always the case.

I am, gentlemen, yours, &c.

RUFUS PUTNAM.

To Messrs. Phillips, Wells and Dane, Committee.

True copy.—Attest,

JOHN AVERY, JUN. Secretary.

A. No. 8.

*Office for Foreign Affairs, 21st April, 1785.*

THE Secretary of the United States for the department of foreign affairs, to whom was referred the papers herewith enclosed respecting the eastern boundary line of said States, reports—

That in his opinion, effectual measures should be immediately taken to settle all disputes with the crown of Great Britain, relative to that line.

He thinks that copies of the said papers should be transmitted to the minister plenipotentiary of the United States at that court, with instructions to present a proper representation of the case, and to propose that commissioners be appointed to hear, and finally decide those disputes.

If this measure should appear expedient to Congress, your secretary would suggest the following hints on the subject, viz.

That the number of commissioners should be six, or eight, or ten, or twelve, at the election of his Britannick majesty. the exact number not being important.

That two commissions of the like tenour, to be agreed upon between our and their ministers, be issued to the whole number, viz. one by the United States, and the other by his Britannick majesty.

That each party shall name the one half of the whole number.

That they shall all be foreigners, or all be persons of the two nations, at the election of his Britannick majesty; it not being important.

If he should prefer having them of the two nations, then that he shall name the one half of them, being inhabitants of any of his dominions, except these which are situated in and to the west and south of the gulf of St. Lawrence; and that the United States shall name the other half, from any of their countries except Massachusetts.

That the commissioners, if of the two countries, shall sit in North America, but if foreigners in Europe, at any place which may be agreed upon by our and their ministers. That previous to their proceeding to business, they shall respectively take an oath, fairly, impartially, and justly, without fear, favour or affection, to hear and decide the said matters in difference, according to the best of their skill and understanding, agreeably to the directions, true intent and meaning of the said commissions.

That in case of the death or refusal to act of any of the said commissioners previous to their opening and proceeding to execute the said commission (but not afterwards) the place of such, so dying or refusing, shall be supplied by the party who named him, and that a certificate thereof under the seal of Great Britain, or of the United States, as the case may be, directed to the said commissioners, by the style of "The commissioners for settling the boundary line between his Britannick majesty and the United States, on the easterly side of the latter;" shall be full evidence of such appointment.

That a majority of the whole number shall be a quorum for every purpose committed to them expressly, or necessarily implied in their commissions; such as choosing their chairman, appointing secretaries and surveyors, adjourning from day to day, or for a longer term, which should not exceed ten days, deciding on matters of evidence, and finally determining the matters in difference, &c.

That they keep regular minutes of their proceedings. That all evidence, whether oral or written, be entered at

large in them. That copies of all maps and surveys admitted as evidence be made and kept with their papers.

That their chairman for the time being, shall have power to administer oaths. That contempts offered to the board, while convened and sitting on the business of the commission, shall be punishable as contempts committed in a court of justice; and that a certificate by the chairman of such contempt, delivered to any civil magistrate, shall make it the duty of such magistrate to apprehend and commit the offender to prison, there to remain until thence delivered in due course of law.

That both parties shall have free access to the publick offices and records of the other, and be supplied with copies or exemplifications of any parts thereof, on paying the accustomed fees.

That both the parties shall produce to the board whatever they may have to offer within three months after the opening of the said commission by a quorum of the commissioners, at the place to be appointed, who shall sit and be ready to do business during the whole of that term, unless the parties shall, by writing under the hands of their agent or agents, sooner declare that they have nothing further to offer.

That on receiving such declarations, from both the parties, if within the said three months, or from and immediately after the expiration of that term, whichsoever of those events shall first happen, the commissioners shall within two days thereafter deliver their judgment in writing under their hands and seals, or the hands and seals of a majority of them, to the agents of both parties, viz. one copy for each party; and that the said judgment shall be absolute, final and conclusive between the said parties.

That on having given judgment as aforesaid, or as soon as may be within two months thereafter, they shall annex transcripts of all their minutes, proceedings, and maps or surveys above mentioned, to each of the said commissioners, and under their hands and seals, or the hands and seals of a majority of them, shall return the same, the one issued by his Britannick majesty to his Britannick majesty, and the one by the United States to the United States in Congress assembled; and that the delivery of the same to their respective agents shall be deemed and adjudged to be a good and sufficient return.

That the allowance to be made the said commissioners for service and expenses be fixed by our and their minister, and that each party pay the one half thereof.

That it be expressly stipulated, that his Britannick majesty shall, within six months after the day on which the judgment shall be delivered to the agents as aforesaid, cause the United States to be put in full possession of all the territories, lands and islands, which by the said judgment may be adjudged to the said states, and then being in the possession of his majesty; and on the other hand, that the United States shall, within six months after the day on which the judgment shall be delivered as aforesaid, cause his Britannick majesty to be put in full possession of all the territories, lands and islands, which by the said judgment may be adjudged to him, and then being in the possession of the United States. All which is humbly submitted to the wisdom of Congress.

JOHN JAY.

A. No. 9.

I, Nathan Jones, of Goldsborough, in the county of Lincoln, and commonwealth of Massachusetts, Esq. testify and say, that in the year 1764 I was employed by sir Francis Bernard, then governour of the province of Massachusetts Bay, as commander of a party employed to explore the woods and view the rivers and bays, particularly that of Passamaquoddy, in the eastern parts of said province; and to ascertain the river St. Croix dividing the said province from the government of Nova Scotia; and to perform a survey thereof. Accordingly we proceeded, and assembled upwards of forty of the Indians on an island called L'Tete; and after having fully and freely conversed with them upon the subject of our mission, the chief commissioned three Indians to show us the said river St. Croix, which is situated nearly six miles north, and about three degrees east of the harbour of L'Tete, and east north east of the bay or river Schoodick, and distant from it about nine miles upon a right line. The aforesaid three Indians, after having shown us the said river, and being duly informed of the nature and importance of an oath, did make solemn oath to the truth of their information respecting the identity of the said river St. Croix, and that it was the river known amongst them by that name; which river is the eastern river in the bay of Passamaquoddy, and now known by the name of the Maggacadava. We proceeded according to this information in our surveys, and agreeably thereto, in August following, made return of our doings to the said governour Bernard.

NATHAN JONES.

Suffolk, ss. Boston, March 17, 1785.—The above named Nathan Jones personally appeared, and on oath declared, that the above by him subscribed is true.

Before me, EZEKL. PRICE, Just. Peace.

True copy.—Attest,

JOHN AVERY, JUN. Secretary.

A. No. 10.

*St. Johns, New Brunswick, June 21, 1785.*

SIR,—In consequence of a letter from your excellency to the governour of Nova Scotia, which has been transmitted to his majesty's ministers, respecting the boundary between this province and the state of Massachusetts Bay, I have it in charge to inform your excellency that the great St. Croix, called Schoodick by the Indians, was not only considered by the court of Great Britain as the river intended and agreed upon by the treaty to form a part of that boundary, but a numerous body of the loyal refugees, immediately after the peace, built the town of St. Andrews on the eastern bank thereof. And in fact it is the only river on that side of the province of either such magnitude or extent as could have led to the idea of proposing it as a limit between two large and spacious countries.

In making this communication concerning a point of great publick importance, I cannot entertain a doubt, sir, of your excellency's concurrence with me in contributing to the complete observance of the treaty subsisting between Great Britain and the United States of America, as far as may in any instance immediately respect the state of Massachusetts and the province of New Brunswick; and I hope, and am persuaded, that if any further question on this subject should arise between us, it will be considered on both sides with a temper and attention essential for the preservation of national peace and harmony. I have the honour to be, &c.

THOMAS CARLETON.

His Excellency Gov. Hancock.

*Commonwealth of Massachusetts. In Senate, July 1, 1785.*

RESOLVED, That his excellency the governour be desired to transmit a copy of the foregoing letter to the delegates of

this state in Congress, to be by them communicated to the United States in Congress assembled.

Sent down for concurrence.

SAMUEL PHILLIPS, JUN. President.

In the House of Representatives, July 1, 1785.

Read and concurred.

NATHANIEL GORHAM, Speaker.

Approved.

JAMES BOWDOIN.

A true copy.—Attest,

JOHN AVERY, JUN. Secretary.

A. No. 11.

*Passamaquoddy, August 23, 1785.*

SIR,—Being at this place on some private business of my own, I was informed that the government of New Brunswick had asserted their claims to Moose Island, Dudley and Fred Isle, all lying to the westward of Schoodick river. These islands were surveyed last season by general Putnam, by order of the committee on eastern lands, and the two last mentioned sold by them to colonel Allan, who has, with Mr. De Lesdernier settled thereon, built houses and stores, and cleared up the lands at a great expense. Moose Island is large and well situated for trade, and has a number of worthy inhabitants settled on it. A few days ago Mr. Wier, high sheriff for Charlotte county, posted up advertisements on Moose Island, directing the inhabitants to attend the courts at St. Andrews as jurymen. This alarmed the inhabitants, as they were threatened, in case of refusal, to be deprived of their estates. Some weak and designing minds were for complying; others determined not at all events. Application was made to me by colonel Allan, the naval officer, colonel Crane, major Trescott, with a number of other principal gentlemen, to do something to counteract the proceedings of Mr. Wier; as it would be very detrimental to the claims of our government in settling the boundary in regard to the islands, for the inhabitants to obey and acknowledge the jurisdiction of Great Britain: therefore I went on to the island, and warned them (as a Justice of the Peace,) that, as they were subjects of this commonwealth, not to obey the orders of any other power whatever. This I conceived my duty to do, more particularly as it is part of my district as collector of excise, and I have a deputy on the same island. This matter is of the utmost consequence to our government; for should the British take in these

islands, we should be entirely cut off from going up the river Schoodick. And likewise these islands having been surveyed by order of the commonwealth, and two of them sold to gentlemen who have laid out as much as five or six hundred pounds in buildings and improvements, our government must in honour protect them, or repay what damages they may suffer. Since this matter has taken place, I was up to St. Andrews on some business of my own, and had a long conversation with Mr. Wier, the high sheriff, Mr. Pagan, and other principal persons. They say they acted by advice and directions of judge Ludlow, who is of opinion that all the islands in the bay of Passamaquoddy belong to New Brunswick, and are determined to support their claim; and should the inhabitants refuse to obey their summons, they may depend on being punished. They also let me see a long letter from lord Sidney, wherein he informs, that notwithstanding the opinion of the Massachusetts, and the report of generals Knox and Lincoln (which was then before him) his majesty's servants were fully clear that Schoodick was the boundary; and his majesty's subjects settled between that and the Madecadawie (or what we call St. Croix) might fully rely on their protection.—Mr. Wier made use of many arguments to show the propriety of their claims to all the islands; among others he said, before the war the inhabitants on all of them, in any of their disputes, applied to magistrates belonging to Nova Scotia for redress, and acknowledged themselves subjects of that province; and the Massachusetts not asserting any right over them was tacitly acknowledging it to be so.

I hope your excellency will not think I have been too forward. I acted from a principle of publick good. Agreeably to the principle they advance (as well as lord Sheffield's ideas in his publications) if the inhabitants should acknowledge the jurisdiction of that government, it would more fully support their claims, which I hope now will not be the case. The time was so short it would not admit of the inhabitants receiving any orders from your excellency on the subject before the time they were directed to attend. I shall continue to keep a deputy collector of excise on Moose Island to regulate that business until I receive orders from your excellency to the contrary.

I have the honour to be, &c. JAMES AVERY.  
His Excellency James Bowdoin, Esq.

A true copy of the original letter.

Attest,

W. HARRIS, Dep. Secretary.

## A. No. 12.

## COMMONWEALTH OF MASSACHUSETTS.

*Advice of Council respecting Encroachments at the Eastward.  
September 9, 1785.*

HIS excellency the governour laid before the council a letter from James Avery, Esq. relative to the government of New Brunswick, asserting their claims to Moose Island, Dudley and Fred Island, all lying to the westward of Schoodic river, and requested their advice upon the subject—Thereupon advised, That his excellency the governour acquaint James Avery, Esq. that the governour and council highly approve of his vigilant attention to the important interest of the commonwealth; and that the said James Avery be directed to inform the inhabitants of the said islands that the said islands are within the jurisdiction of this commonwealth; and that this government, confiding in their fidelity, expect and require the inhabitants of the same to conduct themselves in every respect as becomes true and faithful subjects of this commonwealth—That a letter be wrote by his excellency the governour to the governour of New Brunswick, upon the subject of these encroachments; and that a copy of the letter from James Avery be sent to our delegates at Congress, with the proceedings of the governour and council upon this business, to be laid before Congress.

## A. No. 13.

*Letter from Gov. Bowdoin to Gov. Carlton. Boston, Sept.  
9, 1785.*

SIR,—I am informed by a gentleman who is an inhabitant in the eastern part of this commonwealth, that the government of New Brunswick hath asserted a claim to Moose Island, Dudley and Fred Island; but I flatter myself he has extended his ideas beyond the real fact, for he mentions only the conduct of the sheriff of your county of Charlotte, (Mr. Wier) grounded on the advice and direction of judge Ludlow, in advertising and directing the inhabitants of Moose Island to attend the courts at St. Andrews, as jurymen, upon pain, in case of refusal, of forfeiting their estates.

As I am not informed that your excellency has interposed your authority, I am inclined to believe that my informant had been premature in forming an opinion that the govern-

ment of New Brunswick had given its sanction to a measure altogether unexpected and unsupportable. I have however given your excellency this information, assuring myself that your excellency will take order effectually to prevent the above mentioned and every other encroachment on the territorial rights and sovereignty of this commonwealth and of the United States.

With regard to the lands lying to the eastward of the river Schoodick, and between that and the river St. Croix, or, as the Indians call it, Maggacadava, relative to which some of the subjects of Great Britain under your immediate government appear to have adopted an improper opinion, it is a matter before Congress, who I am assured will give instructions to their minister at the court of London to assert and maintain their just claims, as set forth in the treaty agreed to between the two nations.

I have the honour to be, &c.

JAMES BOWDOIN.

His Excellency Thomas Carlton, Esq.

Governour of the Province of New Brunswick.

#### A. No. 14.

*Office for Foreign Affairs, September 22, 1785.*

THE Secretary of the United States for the department of foreign affairs, to whom was referred certain official papers delivered to Congress by the delegates of Massachusetts on the 19th instant, relative to attempts of the province of New Brunswick to extend their jurisdiction to Moose Island, &c. reports—

That in his opinion the advice given by the council to his excellency the governour of Massachusetts, on the 9th inst. was proper, and that as one unopposed encroachment always paves the way for another, the commonwealth of Massachusetts be advised by Congress to proceed without *noise* or *delay* to garrison such places in their *actual* possession as may be most exposed.

Your Secretary proposes by these garrisons to support the inhabitants in their allegiance, and to overawe New Brunswick peace officers, whom impunity might tempt to be insolent and troublesome. He thinks these garrisons should not be so large as to give alarm; that they should be under select and discreet officers; that they should be formed by immediate detachments from the militia of some of the other

counties; be at continental charge, and be, as soon as may be, relieved by detachments from the continental troops raised *or to be raised* for the *frontiers*. That they should be ordered never to pass our limits, and to act only on the defensive, or when called upon to support the civil authority. However delicate this measure may appear, it may, in the opinion of your Secretary, be safely confided to the prudence of the governour and council of Massachusetts.

Nothing should be done to provoke hostilities on the one hand, and on the other, it must be remembered, that too great and manifest reluctance to assert our rights by arms, usually invites insult and offence.

Your Secretary is very apprehensive, that to permit these disputes to remain unsettled will be to risk mutual acts of violence which may embroil the two nations in a war. He therefore takes the liberty of calling the attention of Congress to a report he had the honour of making to Congress on this subject the 21st of April last.

Your Secretary thinks that no nation can, consistent with the experience of all ages, expect to enjoy peace and security any longer than they may continue prepared for war; and he cannot forbear expressing his fears, that the United States are not at present in that desirable situation.

As the 11th article of the treaty of alliance between his most christian majesty and the United States contains an explicit and perpetual guaranty of all the possessions of the latter, your Secretary thinks it would be advisable to apprize the court of France of the disputes in question, that his majesty may co-operate with the United States in measures proper to bring about a settlement of them. In his opinion, these measures should be formed and pursued in concert with France, and in such a manner as that she may have no just cause to be dissatisfied, or to say, that as we acted without her concurrence, we alone are to be responsible for the consequences. All which is submitted to the wisdom of Congress.

JOHN JAY.

A. No. 15.

*United States in Congress assembled, Oct. 13, 1785.*

RESOLVED, That copies of the papers and documents received from the governour of the state of Massachusetts, respecting the encroachment made by certain subjects of

his Britannick majesty upon the territories of that state, and within the boundaries of the United States, be transmitted to the minister plenipotentiary of the United States at the court of London, to the end that effectual measures should be immediately taken to settle all disputes with the crown of Great Britain relative to that line.

Resolved, That the said minister plenipotentiary be, and hereby is, instructed to present a proper representation of this case; and if any adjustment consistent with the true meaning of the definitive articles of peace and friendship between the United States and his Britannick majesty cannot, by such representation, be obtained in the ordinary mode of negotiation, that he propose a settlement and final decision of the said dispute by commissaries mutually appointed for that purpose, for the appointment of whom, and for all purposes incident to the final determination of the said dispute by commissaries conformably to the laws of nations, the said minister plenipotentiary is hereby vested with full powers on behalf of the United States of America.

CHARLES THOMPSON, Secretary.

A. No. 16.

*New York, Nov. 1, 1785.*

DEAR SIR,—I have the honour of transmitting to you herewith enclosed an act of Congress of the 13th ult. respecting British claims and encroachments on our eastern boundaries, and instructing and authorizing you to take proper measures for amicably settling the disputes thence arising. You will also find herewith enclosed the several papers and documents referred to in that act, and of which a list is hereto subjoined.

It also appears to me expedient to send you copies of two reports which I have made to Congress respecting these matters, not for your direction, but that you may thereby be fully informed of my sentiments on this interesting subject.

With great regard, I am, &c.

JOHN JAY.

Hon. John Adams.

## B. No. 1.

*To the President, the Senate and House of Representatives of the United States of America in Congress assembled.*

THE petition of James Boyd, of Boston, in the county of Suffolk, and commonwealth of Massachusetts, esquire, humbly sheweth, That your petitioner was possessed, from the year 1767 to the beginning of our contest with Great Britain, of very large property in lands situated on the eastern bank of the river Schoodick, granted him by the British government of Nova Scotia; and that during said period he introduced many families on the same lands at his own charge, and expended much property in getting the same under considerable improvement and cultivation:—But feeling himself attached to the cause of America, he took such an active part in their favour, that the resentment of the British subjects in that province compelled him to leave the country, and flee to the protection of the United States; and that in consequence thereof he has suffered poverty and distress from that day to the present time; that the said lands which your petitioner held are on the western side of the river St. Croix, and within the dominions of the United States, but unjustly now held in possession by British subjects; that the facts aforesaid and your petitioners situation have been particularly set forth to Congress by the legislature of this commonwealth, in a letter of instructions to their delegates in the year 1786, signed and transmitted by the then governour Bowdoin, and which is now on the files of Congress, accompanied with a number of letters from governour Bowdoin, the present governour Hancock, and others, upon the subject, to which your excellency and honours will please to be referred; that your petitioner, by his thus quitting the British and joining the American interest, has been subjected to peculiar hardships and difficulties, which, with a large family he has with great anxiety sustained:—But confiding in the power and disposition of the present Congress of the United States to do him complete justice, he requests them to put him in possession of his lands aforesaid, now held by British subjects, though on this side the line between the two dominions, or otherwise recompense your petitioner who has lost the whole of his property and means of procuring a comfortable subsistence in consequence of his attachment as aforesaid.

Your petitioner begs leave to add, that he is possessed of papers, and that John Mitchell, Esq. of the state of New Hampshire (now an old man about 76 years of age) is also possessed of papers that may be useful in determining the real situation of the river St. Croix, intended by the late treaty of peace to be the dividing line between the dominions of the United States and Great Britain, as will appear by a plan taken in the year 1764 by the said Mitchell, and another taken by the surveyor general of Nova Scotia the year following, and now in the possession of your petitioner, who, as in duty bound will ever pray, &c.

JAMES BOYD.

Boston, Nov. 27, 1789.

True copy,

GEORGE TAYLOR, JUN.

Chief Clerk in the Department of State.

## B. No. 2.

### COMMONWEALTH OF MASSACHUSETTS.

*Letter of Instruction to the Delegates at Congress, respecting James Boyd, to be signed and forwarded by the Governour. November 10, 1786.*

ON the petition of James Boyd, Esq. a letter of instruction to the delegates of this commonwealth at Congress :

It having been represented to this court by James Boyd, Esq. now resident in Boston, that he obtained from the British government, in the year 1767, a grant of fifty thousand acres of land, lying on the banks of the river Schoodick ; and that the said Boyd went on, and possessed the said lands, introducing at his own charge a large number of families, and that he was at great expense for cattle and farming utensils of all sorts, as well as in the erecting of necessary mills and water works ; but in the beginning of the late war between Great Britain and these States, he took such an active and decided part in favour of the latter, that he soon became very obnoxious to the resentment of the British, and was obliged to leave all his property and possessions, and flee to the protection of the United States ; that he has resided in Boston until the present time in hopes that his aforementioned lands would fall within the bounds of this state, and that he should be reinstated in them ; that the whole of his lands are on the western side of that river, which we suppose to be the St. Croix mentioned in the trea-

ty, and the boundary line between Nova Scotia and these states; but that as the British subjects are at present in the possession of those lands, the said Boyd is unjustly prevented from returning there to occupy and improve them. As we esteem him to have been a good friend to this country, and still to remain such, and one who is at present deprived of the possession of a large interest in consequence of his attachment to it, we instruct you to recommend him to the attention and favour of Congress, and to move that honourable body to afford him such relief as they may think proper.

Read, and ordered, That the foregoing letter be transmitted, and that his excellency the governour be requested to sign and transmit the same to the delegates from this commonwealth in Congress.

B. No. 3.

[Same as A. No. 2.]

B. No. 4.

[Same as A. No. 9.]

B. No. 5.

[Copy of Mitchell's Map.—Cannot be found.]

B. No. 6.

*Observations on the Western limits of that part of Nova Scotia now called New Brunswick, &c.*

MR. BERNARD, the governour of Massachusetts Bay, in the year 1764, caused a survey of the bay of Passamaquoddy to be made, and proposed making grants of land as being within his government. The next year Mr. Wilmot, the governour of Nova Scotia, sent the chief land surveyor to make a survey of that bay, when upon full inquiry it was found there were three rivers called St. Croix, all emptying into that bay; that the river called by the Indians Copscook was anciently called, by the French, St. Croix; and on examining into the original grants of Nova Scotia it appears, that the grant made by king Charles the II. to his brother the duke of York, in 1663 (called the duke of York's territory) was bounded by the river St. Croix, to the eastward, and by the

river Kennebeck to the westward ; and on the 12th of August, the same year, sir William Alexander obtained a grant of N. S. bounded westerly as far as the river St. Croix, and to the furthestmost source or spring which first comes from the west to mingle its waters with those of the river St. Croix, and from thence running towards the north, &c. &c. All the islands in Passamaquoddy Bay are included in this grant, and have ever since been deemed to belong to Nova Scotia. Upon governour Wilmot's transmitting to governour Bernard the plans and reports made by the surveyor of Nova Scotia, in 1765, governour Bernard the same year applied to, and obtained a grant from the governour of Nova Scotia of one hundred thousand acres, including Moose Island, for himself and associates, Thomas Pownal, John Mitchell, Thomas Thorton, and Richard Jackson, between Copscook and Schoodick rivers on the western side Passamaquoddy Bay ; and the remainder of the principal islands in that bay were granted by the governour of Nova Scotia the same year ; and the whole of Passamaquoddy Bay, together with Grand Manan and all the islands in the bay, have been deemed to be within the limits of Nova Scotia until the separation of New Brunswick from it.

By the definitive treaty of peace, signed at Paris, September 3, 1763, the eastern limits or boundaries of the United States are thus described :

East by a line to be drawn along the middle of the river St. Croix, from its mouth in the bay of Fundy to its source, and from its source north to the high lands, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundary between Nova Scotia on the one part, and East Florida on the other part, shall respectively touch the bay of Fundy and the Atlantick ocean, excepting such islands as now are or heretofore have been deemed within the limits of Nova Scotia.

Thus it is clearly evident that Grand Manan, Passamaquoddy, Great Island now called Campo Bello, Dear Island, Moose Island, and all the islands lying within that bay, whether on the southern or northern side the line drawn due east from the mouth of St. Croix river, should, as formerly, belong to Nova Scotia or New Brunswick.

Whether Schoodick, or whether Copscook is the river that this treaty fixes on for the boundary I will not presume to say ; but from the manner in which these boundaries are described, I should deem that river to be the river St. Croix

intended whose source should be found farthest into the country westward and northward toward the high land mentioned in the treaty, being conformable to the old grants before named; and if my conjecture is well founded the St. Croix mentioned in the treaty cannot be properly ascertained until accurate surveys are made and proper commissioners appointed to determine thereupon.

Remarks for Capt. Browell, 1789.

B. No. 7.

[Same as A. No. 4.]

B. No. 8.

*Extract from the Journals of Congress. January 29, 1784.*

ON the report of a committee, consisting of Mr. Jefferson, Mr. Osgood and Mr. Williamson, to whom were referred a letter of the 25th December, 1783, from John Allan, and the papers therein enclosed:

*Resolved*, That a copy of the said letter be sent to the governour of Massachusetts, with a recommendation, that he cause inquiry to be made, whether the encroachments therein suggested have been actually made on the territories of the state of Massachusetts, by the subjects of his Britannick majesty, from the government of Nova Scotia; and if he shall find any such to have been made, that he send a representation thereof to the British governour of Nova Scotia, with a copy of the proclamation of the United States of the 14th inst.\* which is to be enclosed to the governour of Massachusetts for that purpose, requesting him in a friendly manner, and as a proof of that disposition for peace and harmony which should subsist between neighbouring states, to recall from off the said territory, the said subjects of his Britannick majesty, so found to have encroached thereon; and that the governour of Massachusetts be requested to inform Congress of his proceedings herein, and the result thereof.

\* Proclamation ratifying treaty of peace, 1783.

## B. No. 9.

*Extract from Douglass's Summary, Historical and Political, of the First Planting, Progressive Improvements, and Present State of the British Settlements in North America. London, printed 1760, Page 320, Section 7th, first Volume.*

As the Cape Sable and St. Jones Indians persisted in their hostilities against the subjects of Great Britain, in November 1744, the government of Massachusetts Bay declares war against them, declaring them enemies and rebels; because they had joined the French enemy in blocking up Annapolis; had killed some British subjects, and had committed other depredations. The Passamaquoddy, Penobscot, Noridgewog, Pigwockit and other Indians westward of St. Jones, are forbid to have any correspondence with those Indian rebels. For all Indians eastward of a line beginning at three miles east of Passamaquoddy, and running north to St. Lawrence river, the government settles for a short time premiums, viz. 100*l.* new tenour for a male of 12 *Æt.* and upwards scalped, and 105*l.* new tenour if captivated; for women and children 50*l.* scalps, 55*l.* captives. Some time afterwards it was found that the Penobscot and Noridgewog Indians also joined with the French.

Page 330, sect. 7th. When Massachusetts Bay colony obtained a new charter (their former charter was taken away at the same time with many corporation charters in England in the end of Charles II. and beginning of the like or more arbitrary reign of James II.) 7th of October, 1691. Nova Scotia, at that time in possession of the French, was annexed (as was also Sagadahock, or duke of York's property) to the Massachusetts jurisdiction, to keep up the claim of Great Britain. Nova Scotia has since been constituted a separate government, and has continued about forty years to this time a nominal British province, without any British settlement, only an insignificant preventive but precarious fort and garrison. As this country is rude, a geographical description of it cannot be expected. It is a large extent of territory, bounded westward by the bay of Fundy, and a line running northward from St. Jones river to St. Lawrence or Canada great river; northward it is bounded by the said St. Lawrence and gut of Canso, which divides from the island of Cape Britain; and southeasterly it is bounded by Cape Sable shore settled at the treaty of Utrecht, 1713.

P. 332, sect. 7. Upon the opposite or westerly shore of the

bay of Fundy, are the rivers Passamaquoddy and St. Croix, being about seventeen leagues s. w. from the gut or entrance of the bason of Annapolis. The river of St. Croix is the boundary between Nova Scotia and the territory of Sagadahock, or the duke of York's property, annexed to the neighbouring New England province of Massachusetts bay.

*Extracts from a Treatise entitled The Beginning, Progress and Conclusion of the late War, printed in London, in the Year 1770.*

FRANCE having by the treaty concluded at Aix La Chapelle, in October, 1748, obtained restitution of Cape Breton, her ministers soon formed and began to execute a design to divide and impair the British American empire, and to enable her farther to distress their trade and fishery by extending her territories from the river Canada through the main land to the Atlantick ocean, westward as far as the river Kennebeck, and eastward so as to include all the main land of Nova Scotia, leaving to the English only part of the peninsula; for the illustration whereof, with other matters, a map is hereto annexed. And although Nova Scotia has so often passed from nation to nation, the pretensions of France amounted to this, that Great Britain was to hold by the last cession made to her only a small part of the same country which had passed to France by former cessions. Having already observed that all Nova Scotia or Acadia, with its ancient boundaries, was ceded by the Utrecht treaty to Great Britain, let us here add that when this country was first named Nova Scotia, the following boundaries were given to it in the grant to sir William Alexander, to wit. All and singular the lands of the continent, and the islands in America within Cape Sable, lying in forty-three degrees north latitude, or thereabouts; thence along the coast to St. Mary's Bay, and thence passing northward by a right line across the gulf or bay now called Fundy to the river St. Croix, and to the remotest western spring head of the same; whence by an imaginary line conceived to run through the land northward to the next road of Ships river or spring, discharging itself into the great river of Canada, and proceeding thence eastward along the shores of the sea of the said river of Canada to the road, haven or shore, commonly called Gaspick, and thence southeastward [versus euronotum] to the islands called Baccalaos or Cape Breton, leaving the said islands on the right, and the gulf of said great river of Canada, and the

lands of Newfoundland, with the islands to those lands pertaining, on the left; and thence to the promontory of Cape Breton aforesaid, lying near or about the latitude of 45 degrees, and from the said promontory of Cape Breton towards the south and west to the aforesaid Cape Sable, where the perambulation began.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
EASTERN BOUNDARY ON BRITISH TERRITORY. FEBRUARY  
18, 1790.

By the mail of last evening I received a letter from his excellency John Hancock, governour of the commonwealth of Massachusetts, enclosing a resolve of the senate and house of representatives of that commonwealth, and sundry documents relative to the eastern boundary of the United States.

I have directed a copy of the letter and resolve to be laid before you. The documents which accompanied them being but copies of some of the papers which were delivered to you with my communication of the 9th of this month,\* I have thought it unnecessary to lay them before you at this time. They will be deposited in the office of the Secretary of State, together with the originals of the above mentioned letter and resolve.

GEORGE WASHINGTON.

*Boston, Feb. 10, 1790.*

SIR,—At the request of the senate and house of representatives of this commonwealth, I have the honour to enclose you some papers evidential of the encroachments made by the subjects of the king of England upon the eastern frontier of this commonwealth.

If the papers transmitted do not give satisfactory proof upon this point, I wish that Congress would direct a mode in which a proper and speedy inquiry may be made.

A speedy investigation of this dispute may have a tendency to prevent a disagreeable contention which is likely

\* See page 9 of this volume.

to take place between the people on the frontiers of the two nations. I have the honour to be, &c.

JOHN HANCOCK.

George Washington,  
President of the United States.

*Commonwealth of Massachusetts. In Senate, February 1,  
1790.*

RESOLVED, That his excellency the governour be, and he is hereby requested, to write to the President of the United States, in behalf of this commonwealth, informing him that the subjects of his Britannick majesty have made and still continue to make encroachments on the eastern boundary of this commonwealth, in the opinion of the legislature, contrary to the treaty of peace; and that his excellency be further requested to forward such documents as may be necessary to substantiate the facts.

Sent down for concurrence.

THOMAS DAWES, President pro tem.

In the House of Representatives, February 1, 1790.

Read and concurred.

DAVID COBB, Speaker.

A true copy.—Attest,

JOHN AVERY, JUN. Secretary.

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## REPORT

OF THE SECRETARY OF STATE RELATIVE TO THE MEDITERRANEAN TRADE. DEC. 28, 1790.

THE Secretary of State to whom was referred by the House of Representatives so much of the speech of the President of the United States to both Houses of Congress, as relates to the trade of the United States in the Mediterranean, with instructions to report thereupon to the House, has had the same under consideration, and thereupon makes the following report:

The loss of the records of the customhouses in several of the states, which took place about the commencement and during the course of the late war, has deprived us of official information, as to the extent of our commerce and navigation.

in the Mediterranean sea. According to the best which may be obtained from other sources meriting respect, it may be concluded, that about one sixth of the wheat and flour exported from the United States, and about one fourth in value of their dried and pickled fish, and some rice, found their best markets in the Mediterranean ports: that these articles constituted the principal part of what we sent into that sea: that that commerce loaded outwards from eighty to one hundred ships, annually, of twenty thousand tons, navigated by about twelve hundred seamen. It was abandoned early in the war. And after the peace which ensued, it was obvious to our merchants, that their adventures into that sea would be exposed to the depredations of the piratical states on the coast of Barbary. Congress, too, was very early attentive to this danger, and by a commission of the 12th of May, 1784, authorized certain persons, named ministers plenipotentiary for that purpose, to conclude treaties of peace and amity with the Barbary powers. And it being afterwards found more expedient that the negotiations should be carried on at the residences of those powers, Congress, by a farther commission, bearing date the 11th of March, 1785, empowered the same ministers plenipotentiary to appoint agents to repair to the said powers at their proper residences, and there to negotiate such treaties. The whole expenses were limited to eighty thousand dollars. Agents were accordingly sent to Morocco and Algiers.

Before the appointment of the one to Morocco, it was known that a cruiser of that state had taken a vessel of the United States; and that the emperor, on the friendly interposition of the court of Madrid, had liberated the crew, and made restitution of the vessel and cargo, as far as their condition admitted. This was a happy presage of the liberal treaty he afterwards concluded with our agent, still under the friendly mediation of Spain, and at an expense of between nine and ten thousand dollars only. On his death, which has taken place not long since, it becomes necessary, according to their usage, to obtain immediately a recognition of the treaty by his successor, and consequently, to make provision for the expenses which may attend it. The amount of the former furnishes one ground of estimate; but the character and dispositions of the successor, which are unknown here, may influence it materially. The friendship of this power is important, because our Atlantick as well as Mediterranean trade is open to his annoyance, and because we carry on a useful commerce with his nation.

The Algerines had also taken two vessels of the United States, with twenty-one persons on board, whom they retained as slaves. On the arrival of the agent sent to that regency, the dey refused utterly to treat of peace on any terms, and demanded 59,496 dollars for the ransom of our captives. This mission therefore proved ineffectual.

While these negotiations were on foot at Morocco and Algiers, an ambassador from Tripoli arrived in London. The ministers plenipotentiary of the United States met him in person. He demanded for the peace of that state, thirty thousand guineas; and undertook to engage that of Tunis for a like sum. These demands were beyond the limits of Congress, and of reason, and nothing was done. Nor was it of importance, as, Algiers remaining hostile, the peace of Tunis and Tripoli was of no value; and when that of the former should be obtained, theirs would soon follow.

Our navigation, then, into the Mediterranean, has not been resumed at all since the peace. The sole obstacle has been the unprovoked war of Algiers; and the sole remedy must be to bring that war to an end, or to palliate its effects. Its effects may, perhaps, be palliated by insuring our ships and cargoes destined for that sea, and by forming a convention with the regency, for the ransom of our seamen, according to a fixed tariff. That tariff will, probably, be high, and the rate of insurance so settled, in the long run, as to pay for the vessels and cargoes captured, and something more. What proportion will be captured nothing but experience can determine. Our commerce differs from that of most of the nations, with whom the predatory states are in habits of war. Theirs is spread all over the face of the Mediterranean, and therefore must be sought for all over its face. Ours must all enter at a strait only five leagues wide; so that their cruisers, taking a safe and commanding position near the strait's mouth, may very effectually inspect whatever enters it. So safe a station, with a certainty of receiving for their prisoners a good and stated price, may tempt their cupidity to seek our vessels particularly. Nor is it certain that our seamen could be induced to engage in that navigation, though with the security of Algerine faith that they would be liberated on the payment of a fixed sum. The temporary deprivation of liberty, perhaps chains, the danger of the pest; the perils of the engagement preceding their surrender, and possible delays of the ransom, might turn elsewhere the choice of men, to whom all the rest of the world is open. In every case, these would be embar-

rassments, which would enter into the merchants' estimate, and endanger the preference of foreign bottoms not exposed to them. And upon the whole this expedient does not fulfil our wish of a complete re-establishment of our commerce in that sea.

A second plan might be, to obtain peace by purchasing it. For this we have the example of rich and powerful nations, in this instance counting their interest more than their honour. If, conforming to their example, we determine to purchase a peace, it is proper to inquire what the peace may cost. This being merely a matter of conjecture, we can only compare together such opinions as have been obtained, and from them form one for ourselves.

Mr. Wolf, a respectable Irishman, who had resided very long at Algiers, thought a peace might be obtained from that regency, and the redemption of our captives included, for sixty or seventy thousand pounds sterling.\* His character and opinion both merited respect. Yet his estimate being the lowest of all who have hazarded an opinion on this subject, one is apt to fear his judgment might have been biassed by the hope he entertained that the United States would charge him with this negotiation.

Captain O'Brien, one of our captives, who had been in Algiers four years and a half at the date of his last letter, a very sensible man, and to whom we are indebted for very minute information, supposes that peace alone, might be bought for that sum, that is to say, for three hundred and twenty-two thousand dollars.

The Tripoline ambassador, before mentioned, thought that peace could be made with the three smaller powers for ninety thousand pounds sterling, to which were to be added the expenses of the mission and other incidental expenses. But he could not answer for Algiers: they would demand more. The ministers plenipotentiary, who conferred with him, had judged that as much must be paid to Algiers as to the other three powers together; and consequently, that according to this measure, the peace of Algiers would cost from an hundred to an hundred and twenty-five thousand pounds sterling; or from four hundred and sixty to five hundred and seventy-five thousand dollars.

The latter sum seemed to meet the ideas of the count de Vergennes, who, from a very long residence at Constantinople, was a good judge of what related to the porte, or its dependencies.

\* See No. 1 accompanying this report.

A person whose name is not free to be mentioned here, a native of the continent of Europe, who had long lived, and still lives at Algiers, with whom the minister plenipotentiary of the United States at Paris had many and long conversations, and found his information full, clear, and consistent, was of opinion the peace of Algiers could not be bought by the United States for less than one million of dollars. And when that is paid, all is not done. On the death of a dey (and the present one is between seventy and eighty years of age) respectable presents must be made to the successor, that he may recognise the treaty; and very often he takes the liberty of altering it. When a consul is sent or changed, new presents must be made. If these events leave a considerable interval, occasion must be made of renewing presents. And with all this they must see that we are in condition to chastise an infraction of the treaty; consequently some marine force must be exhibited in their harbour, from time to time.

The late peace of Spain with Algiers is said to have cost from three to five millions of dollars. Having received the money, they take the vessels of that nation on the most groundless pretexts; counting, that the same force, which bound Spain to so hard a treaty, may break it with impunity.

Their treaty with France, which had expired, was about two years ago renewed for fifty years. The sum given at the time of renewal is not known. But presents are to be repeated every ten years, and a tribute of one hundred thousand dollars to be annually paid. Yet perceiving that France, embarrassed at home with her domestick affairs, was less capable of acting abroad, they took six vessels of that nation in the course of the last year, and retain the captives, forty-four in number, in slavery.

It is the opinion of captain O'Brien, that those nations are best treated who pay a smaller sum in the beginning, and an annual tribute afterwards. In this way he informs us that the Dutch, Danes, Swedes, and Venetians pay to Algiers, from twenty-four to thirty thousand dollars a year, each; the two first in naval stores, the two last chiefly in money. It is supposed, that the peace of the Barbary states costs Great Britain about sixty thousand guineas or two hundred and eighty thousand dollars a year. But it must be noted that these facts cannot be authentically advanced; as from a principle of self condemnation, the governments keep them from the publick eye, as much as possible.

Nor must we omit finally to recollect, that the Algerines, attentive to reserve always a sufficient aliment for their piracies, will never extend their peace beyond certain limits, and consequently that we may find ourselves in the case of those nations, to whom they refuse peace at any price.

The third expedient is to repel force by force. Several statements are hereto annexed of the naval force of Algiers, taken in 1785, 1786, 1787, 1788 and 1789, differing in small degrees, but concurring in the main. From these it results, that they have usually had about nine chebecks of from ten to thirty-six guns, and four galleys, which have been reduced by losses to six chebecks and four galleys. They have a forty gun frigate on the stocks, and expect two cruisers from the grand seignior. The character of their vessels is, that they are sharp built and swift, but so light as not to stand the broadside of a good frigate. Their guns are of different calibers, unskilfully pointed and worked. The vessels illy manœuvred, but crowded with men, one third Turks, the rest Moors, of determined bravery, and resting their sole hopes on boarding. But two of these vessels belong to the government, the rest being private property. If they come out of harbour together, they separate immediately in quest of prey; and it is said, they were never known to act together in any instance. Nor do they come out at all, when they know there are vessels cruising for them. They perform three cruises a year, between the middle of April and November, when they unrig and lay up for the winter. When not confined within the straits, they rove northwardly to the channel, and westwardly to the westward islands.

They are at peace at present, with France, Spain, England, Venice, the United Netherlands, Sweden, and Denmark; and at war with Russia, Austria, Portugal, Naples, Sardinia, Genoa and Malta.

Should the United States propose to vindicate their commerce by arms, they would perhaps, think it prudent to possess a force equal to the whole of that which may be opposed to them. What that equal force would be will belong to another department to say.

At the same time it might never be necessary to draw out the whole at once, nor perhaps any proportion of it, but for a small part of the year; as it is reasonable to presume, that a concert of operation might be arranged among the powers at war with the Barbary states, so as that, each performing a tour of a given duration, and in given order, a constant cruise

during the eight temperate months of every year, may be kept up before the harbour of Algiers, till the object of such operations be completely obtained. Portugal has singly, for several years past, kept up such a cruise before the straits of Gibraltar, and by that means has confined the Algerines closely within. But too of their vessels have been out of the straits in the last five years. Should Portugal effect a peace with them, as has been apprehended for some time, the Atlantick will immediately become the principal scene of their piracies; their peace with Spain having reduced the profits of their Mediterranean cruises below the expenses of equipment.

Upon the whole, it rests with Congress to decide between war, tribute, and ransom, as the means of re-establishing our Mediterranean commerce. If war, they will consider how far our own resources shall be called forth, and how far they will enable the Executive to engage, in the forms of the constitution, the co-operation of other powers. If tribute or ransom, it will rest with them to limit and provide the amount; and with the Executive, observing the same constitutional forms, to take arrangements for employing it to the best advantage.

THOMAS JEFFERSON, Sec'y of State.

No. 1.

*Extract of a Letter from Richard O'Brien, one of the American captives at Algiers, to Congress. Algiers, December 26, 1789.*

"It was the opinion of Mr. John Wolf, who resided many years in this city, that the United States of America may obtain a peace for one hundred years with this regency, for the sum of sixty or seventy thousand pounds sterling, and the redemption of fifteen Americans included. Mr. Wolf was the British charge des affaires in Algiers, and was much the friend of America, but he is no more.

"I have now been four years and a half in captivity, and I have much reason to think, that America may obtain a peace with Algiers for the sum of sixty-five or seventy thousand pounds, considering the present state of Algiers. That this regency would find it their interest to take two or three American cruisers in part payment for making a peace; and also would take masts, yards, plank, scantling, tar, pitch and turpentine, and Philadelphia iron, as a part payment: all to be regulated at a certain fixed price by treaty."

## No. 2.

*Extract of a Letter from the Honourable John Adams, Minister Plenipotentiary for the United States at London, to the Honourable John Jay, Secretary for Foreign Affairs. London, February 22, 1786.*

“ON Monday evening another conference was held with the Tripolitan ambassador. When he began to explain himself concerning his demands, he said they would be different according to the duration of the treaty. If that were perpetual, they would be greater; if for a term of years, less; his advice was, that it should be perpetual. Once signed by the bashaw, dey and other officers, it would be indissoluble and binding for ever upon all their successors. But if a temporary treaty were made, it might be difficult and expensive to revive it. For a perpetual treaty, such as they had now with Spain, a sum of thirty thousand guineas must be paid upon the delivery of the articles signed by the dey and other officers. If it were agreed to, he would send his secretary by land to Marseilles, and from thence by water to Tripoli, who should bring it back by the same route, signed by the dey, &c. He had proposed so small a sum, in consideration of the circumstances, but declared it was not half of what had been lately paid them by Spain. If we chose to treat upon a different plan, he would make a treaty perpetual, upon the payment of twelve thousand five hundred guineas for the first year, and three thousand guineas, annually, until the thirty thousand guineas were paid. It was observed that these were large sums, and vastly beyond expectation; but his excellency answered, that they never made a treaty for less. Upon the arrival of a prize, the dey and the other officers are entitled, by their laws, to large shares by which they might make greater profits than those sums amounted to, and they never would give up this advantage for less.

“He was told, that although there was full power to treat, the American ministers were limited to a much smaller sum; so that it would be impossible to do any thing, until we could write to Congress and know their pleasure. Colonel Smith was present at this, as he had been at the last conference, and agreed to go to Paris to communicate all to Mr. Jefferson, and persuade him to come here, that we may join in farther conferences, and transmit the result to Congress.

“The ambassador believed that Tunis and Morocco would treat upon the same terms, but could not answer for Algiers.

They would demand more. When Mr. Jefferson arrives we shall insist upon knowing the ultimatum, and transmit it to Congress.

"Congress will perceive that one hundred and twenty thousand guineas will be indispensable to conclude with the four powers at this rate, besides a present to the ambassadors, and their incidental charges. Besides this, a present of five hundred guineas is made, upon the arrival of a consul in each state. No man wishes more fervently that the expense could be less, but the fact cannot be altered, and the truth ought not to be concealed.

"It may be reasonably concluded that this great affair cannot be finished for much less than two hundred thousand pounds sterling."

### No. 3.

*Extract of a Letter from the Honourable Thomas Jefferson, Minister Plenipotentiary for the United States at Paris, to the Honourable John Jay, Secretary for Foreign Affairs. Paris, May 23, 1786.*

"LETTERS received both from Madrid and Algiers, while I was in London, having suggested that treaties with the states of Barbary would be much facilitated by a previous one with the Ottoman Porte, it was agreed between Mr. Adams and myself, that on my return I should consult, on this subject, the count De Vergennes, whose long residence at Constantinople rendered him the best judge of its expediency. Various circumstances have put it out of my power to consult him till to-day. I stated to him the difficulties we were likely to meet with at Algiers, and asked his opinion, what would be the probable expense of a diplomatic mission to Constantinople, and what its effects at Algiers. He said that the expense would be very great; for that presents must be made at that court, and every one would be gaping after them; and that it would not procure us a peace at Algiers one penny the cheaper. He observed that the Barbary states acknowledged a sort of vassalage to the Porte, and availed themselves of that relation when any thing was to be gained by it; but that whenever it subjected them to a demand from the Porte, they totally disregarded it: that money was the sole agent. He cited the present example of Spain, which, though having a treaty with the Porte, would probably be obliged to buy a peace at Algiers, at the expense of upwards

of six millions of livres. I told him we had calculated, from the demands and information of the Tripoline ambassador at London, that to make peace with the four Barbary states would cost us between two and three hundred thousand guineas, if bought with money.

“The sum did not seem to exceed his expectations. I mentioned to him, that considering the uncertainty of a peace, when bought, perhaps Congress might think it more eligible to establish a cruise of frigates in the Mediterranean, and even to blockade Algiers. He supposed it would require ten vessels, great and small. I observed to him that M. De Massiac had formerly done it with five; he said it was true, but that vessels of relief would be necessary. I hinted to him that I thought the English capable of administering aid to the Algerines. He seemed to think it impossible, on account of the scandal it would bring on them. I asked him what had occasioned the blockade by M. De Massiac, he said an infraction of their treaty by the Algerines.”

No. 4.

*Extract of a Letter from Richard O'Brien to the Hon. Thomas Jefferson. Algiers, April 28, 1787.*

“IT seems the Neapolitan ambassador had obtained a truce with this regency for three months; and the ambassador wrote his court of his success; but about the 1st of April, when the cruisers were fitting out, the ambassador went to the dey, and hoped the dey would give the necessary orders to the captains of his cruisers not to take the Neapolitan vessels. The dey said the meaning of the truce was not to take the Neapolitan cruisers, but if his chebecks should meet the Neapolitan merchantmen to take them and send them for Algiers. The ambassador said, the Neapolitan cruisers would not want a pass on those terms. The dey said, if his chebecks should meet either men of war or merchant vessels, to take them; so gave orders accordingly. The Algerines sailed the 9th instant, and are gone, I believe, off the coast of Italy. This shows there is very little confidence to be put in the royal word. No principle of national honour will bind those people; and I believe not much confidence to be put in them in treaties. The Algerines are not inclinable to a peace with the Neapolitans. I hear of no negotiation. When the two frigates arrive with the money for the ransom of the slaves I believe they are done with the Neapolitans.”

*Extract of a Letter from Richard O'Brien to the Hon. Thomas Jefferson. Algiers, June 13. 1789.*

“THE cruisers had orders to take the Danes; but I believe Denmark, suspecting that on account of their alliance with Russia, that the grand seignior would order the regency of Algiers to make war against the Danes; accordingly the Danes have evacuated the Mediterranean seas, until the affairs of Europe are more settled. The Danish ship with the tribute is shortly expected. She is worth fifty thousand dollars; so that the Algerines will not make known publicly their intention of breaking with Denmark, until this ship arrives with the tribute. I am very sure that Mr. Robindar is very sensible of the intention of those sea-robbers, the terror and scourge of the christians. The reason the Algerines have not committed any depredations on the English, is, that the cruisers have not met with any of them richly loaded; for if they had met a rich ship from London for Livorna, they would certainly have brought her into port, and said that such ship was loaded for the enemy of Algiers at Livorna; but if that was not a sufficient excuse, have overboard or clipt the pass.

“Consul Logie has been treated with much contempt by the Algerine ministry; and you may depend, that when the dey goes to his long home, that his successor will not renew the peace with Great Britain, without a large sum of money is paid, and very valuable presents. This I well know; the whole ministry says, that the peace with the English is very old, and that the English must conform to the custom of other nations, in giving the government here money and presents. In fact the Algerines are trying their endeavours to find some nation to break the peace with them. I think, if they had treated the English in such a manner as they have the French, that the English would resent it.”

*Extract of a Letter from Richard O'Brien to the Honourable Thomas Jefferson. Algiers, June 13, 1789.*

“WHAT dependence or faith could be given to a peace with the Algerines, considering their present haughtiness, and with what contempt and derision do they treat all nations; so that, in my opinion, until the Algerines more strictly adhere to the treaties they have already made, it would be impolitick in any nation to try to make a peace here; for I see they take more from the nations they are at peace

with, than from those they are at declared war with. The Portuguese, I hope, will keep the Algerines inside the straits; for only consider the bad consequence of the Algerines going into the *mar Grandi*. Should the Portuguese make a sudden peace with this regency, the Algerines would immediately go out of the straits, and of course, take many an American."

## No. 5.

*Extract of a Letter from the Honourable John Adams, Esq. Minister Plenipotentiary of the United States at the Court of Great Britain to the Hon. John Jay, Esq. Secretary for Foreign Affairs. February 16, 1786.*

"THE American commerce can be protected from these Africans only by negotiation, or by war. If presents should be exacted from us, as ample as those which are given by England, the expense may amount to sixty thousand pounds sterling a year, an enormous sum to be sure; but infinitely less than the expense of fighting. Two frigates of 30 guns each would cost as much to fit them for the sea, besides the accumulating charges of stores, provisions, pay and clothing. The powers of Europe generally send a squadron of men of war with their ministers, and offer battle at the same time that they propose treaties and promise presents."

## No. 6.

*Several statements of the Marine force of Algiers....Publick and private.*

1786, May 20. Mr. Lamb says it consists of  
 9 Chebecks } from 36 to 3 guns; manned, the largest  
 10 Row Gallies } with 400 men, and so in proportion.

1787, May 27. Mr. Randall furnishes two statements, viz.

A more general one—1 Setye of 34 guns

2 ditto 32

1 ditto 26

1 ditto 24

1 Chebeck 20

1 ditto 18

1 ditto 10

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8

4 half galleys, carrying from 120 to 130 Moors.

3 galliots of 70, 60, and 50 Moors.

A more particular one as follows :

1 of 32 guns,	viz. 2 eighteens,	24 nines,	6 fours,	and 450 men.
1 of 28	viz. 2 twelves,	24 nines,	2 sixes,	and 400 men.
1 of 24	viz.	20 fours,		and 350 men.
1 of 20	viz.	20 sixes,		and 300 men.
2 of 18	viz.	18 sixes,		and 260 men.
1 of 16	viz.	16 sixes,		and 250 men.
2 small craft.				

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9

55 gun-boats, carrying 1 twelve pounder each, for defence of the harbour.

1786, June 8. A letter from the three American captains, O'Brien, Coffin and Stephens, states them

as 1 of 32  
1 of 30  
3 of 24  
3 of 18  
1 of 12

---

9 and 55 gun-boats.

1787, September 25. Captain O'Brien furnishes the following statement :

1 of 30 guns,	400 men	106 feet length,	straight keel.
1	26	320	96
2	22	240	80
1	22	240	75
1	22	240	70
1	18	200	70
1	16	180	64
1	12	150	50

---

9

Galleys	1	4	70	40
	2	2	46	32
	1	2	40	32

1788, February 5. Statement by the inhabitants of Algiers, spoken of in the report.

9 vessels from 36 down to 20 guns.

4 or 5 smaller.

About this date the Algerines lost 2 or 3 vessels, stranded or taken.

1789, December. Captain O'Brien furnishes the latest statement.

1 ship of 24 guns, received lately from France.

5 large cruisers.

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6

3 galleys and 60 gun-boats.

In the fall of 1789, they laid the keel of a 40 gun frigate, and they expect two cruisers from the grand seignior.

### No. 7.

*Translation of a Letter from Count D'Estaing to the Hon. Thomas Jefferson, Esq. Paris, May 17, 1784.*

SIR,—In giving you an account of an opinion of Mr. Massiac, and which absolutely corresponds with my own, I cannot too much observe how great a difference may take place in the course of forty years between the means which he required and those which political circumstances, that I cannot ascertain, may exact.

This secretary of state, afterwards vice-admiral, had the modesty, when a captain, to propose a means for the reduction of Algiers, less brilliant to himself, but more sure and economical than the one government was about to adopt. They wanted him to undertake a bombardment; he proposed a simple blockade. All the force he requested was a single man of war, two strong frigates, and two sloops of war.

I am convinced, that by blocking up Algiers by cross-anchoring, and with a long tow, that is to say, with several cables spliced to each other, and with iron chains, one might, if necessary, always remain there, and there is no barbarian power thus confined, which would not sue for peace.

During the war before last the English remained, even in winter, at anchor before Morbrian, on the coast of Brittany, which is a much more dangerous coast. Expeditionary preparation for sailing of the vessels which form the blockade, which should be of a sufficient number to prevent any thing from entering or going out, while the rest remain at their stations, the choice of these stations, skilful manœuvres, strict watch during the night, every precaution against the element

which every seaman ought to be acquainted with ; also against the enemy to prevent the sudden attack of boats, and to repel them in case they should make an attack by prepared for the purpose, frequent refreshments for the crews, relieving the men, an unshaken constancy and exactness in service, are the means, which in my opinion, would render the event indubitable. Bombardments are but transitory. It is, if I may so express myself, like breaking glass windows with guineas. None have produced effect against the barbarians. Even an imperfect blockade, were one to have the patience and courage to persist therein, would occasion a perpetual evil, it would be insupportable in the long run. To obtain the end proposed no advantage ought to be lost. If several powers would come to a good understanding, and pursue a plan formed on the principles of humanity ; if they were not counteracted by others, it would require but a few years to compel the barbarians to cease being pirates ; they would become merchants in spite of themselves. It is needless to observe, that the unsuccessful attempts of Spain, and those under which the republick of Venice, perhaps, hides other views, have increased the strength as well as the self-love of all the barbarians. We are assured that the Algerines have fitted out merchantmen with heavy cannon. This would render it necessary to block the place with two ships, so that one of the two might remain moored near the bar, while the other might prepare to support such of the frigates as should give chase. But their chebecks, even their frigates, and all their vessels, although overcharged with men, are moreover so badly armed and manœuvred that assistance from without would be most to be feared.

Your excellency has told me the only true means of bringing to terms the only people who can take a pleasure in disturbing our commerce. You see, I speak as an American citizen ; this title, dear to my heart, the value of which I justly prize, affords me the happy opportunity of offering, still more particularly, the homage, the sincere attachment, and the respect with which I have the honour to be, &c.

ESTAING.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO AMERICAN PRISONERS AT ALGIERS. DEC. 30,  
1790.

I LAY before you a report of the Secretary of State on the subject of the citizens of the United States in captivity at Algiers, that you may provide on their behalf what to you shall seem most expedient.

GEORGE WASHINGTON.

THE Secretary of State having had under consideration the situation of the citizens of the United States in captivity at Algiers, makes the following report thereupon to the President of the United States.

When the House of Representatives, at their last session, were pleased to refer to the Secretary of State the petition of our citizens in captivity at Algiers, there still existed some expectation that certain measures, which had been employed to effect their redemption, the success of which depended on their secrecy, might prove effectual. Information received during the recess of Congress has so far weakened those expectations as to make it now a duty to lay before the President of the United States, a full statement of what has been attempted for the relief of these our suffering citizens as well before, as since he came into office, that he may be enabled to decide what further is to be done.

On the 25th of July, 1785, the schooner Maria, captain Stevens, belonging to a Mr. Foster, of Boston, was taken off Cape St. Vincents, by an Algerine corsair; and five days afterwards, the ship Dauphin, capt. O'Brien, belonging to Messieurs Irvins of Philadelphia, was taken by another Algerine, about 50 leagues westward of Lisbon. These vessels, with their cargoes and crews, twenty-one persons in number, were carried into Algiers.

Congress had some time before commissioned ministers plenipotentiary for entering into treaties of amity and commerce with the Barbary powers, and to send to them proper agents for preparing such treaties. An agent was accordingly appointed for Algiers, and his instructions prepared, when the ministers plenipotentiary received information of these captures. Though the ransom of captives was not among the objects expressed in their commissions, because at their

dates the case did not exist, yet they thought it their duty to undertake that ransom, fearing that the captives might be sold and dispersed through the interior and distant countries of Africa, if the previous orders of Congress should be waited for. They therefore added a supplementary instruction to the agent to negotiate their ransom. But while acting thus without authority, they thought themselves bound to offer a price so moderate as not to be disapproved. They therefore restrained him to two hundred dollars a man; which was something less than had been just before paid for about three hundred French captives, by the Mathurins, a religious order of France, instituted in ancient times for the redemption of christian captives from the infidel powers. On the arrival of the agent at Algiers, the dey demanded fifty-nine thousand four hundred and ninety-six dollars for the twenty-one captives, and could not be brought to abate but little from that demand. The agent, therefore, returned in 1786, without having effected either peace or ransom.

In the beginning of the next year, 1787, the minister plenipotentiary of the United States at Paris, procured an interview with the general of the religious order of Mathurins, before mentioned, to engage him to lend his agency, at the expense of the United States, for the redemption of their captive citizens. He proffered at once, all the services he could render, with the liberality and the zeal which distinguish his character. He observed, that he had agents on the spot, constantly employed in seeking out and redeeming the captives of their own country; that these should act for us, as for themselves; that nothing could be accepted for their agency; and that he would only expect that the price of redemption should be ready on our part, so as to cover the engagement into which he should enter. He added, that by the time all expenses were paid, their last redemption had amounted to near two thousand five hundred livres a man, and that he could by no means flatter us that they could redeem our captives as cheap as their own. The pirates would take advantage of its being out of their ordinary line. Still he was in hopes they would not be much higher.

The proposition was then submitted to Congress, that is to say, in February, 1787, and on the 19th of September, in the same year, their minister plenipotentiary at Paris, received their orders to embrace the offers of the Mathurins. This he immediately notified to the general, observing however, that he did not desire him to enter into any engagements till a sufficient sum to cover them should be actually deposited in

Paris. The general wished that the whole might be kept rigorously secret, as, should the barbarians suspect him to be acting for the United States, they would demand such sums as he could never agree to give, even with our consent, because it would injure his future purchases from them. He said he had information from his agent at Algiers, that our captives received so liberal a daily allowance as to evince that it came from a publick source. He recommended that this should be discontinued; engaging that he would have an allowance administered to them, much short indeed of what they had hitherto received, but such as was given to his own countrymen, quite sufficient for physical necessities, and more likely to prepare the opinion, that as they were subsisted by his charity, they were to be redeemed by it also. These ideas, suggested to him by the danger of raising his market, were approved by the minister plenipotentiary; because this being the first instance of a redemption by the United States, it would form a precedent, because a high price given by us might induce these pirates to abandon all other nations in pursuit of Americans; whereas, the contrary would take place, could our price of redemption be fixed at the lowest point.

To destroy, therefore, every expectation of a redemption by the United States, the bills of the Spanish consul at Algiers, who had made the kind advances before spoken of for the sustenance of our captives, were not answered. On the contrary a hint was given that these advances had better be discontinued, as it was not known that they would be reimbursed. It was necessary even to go further, and to suffer the captives themselves and their friends to believe for a while, that no attention was paid to them, no notice taken of their letters. They are still under this impression. It would have been unsafe to trust them with a secret, the disclosure of which might for ever prevent their redemption by raising the demands of the captors to sums which a due regard for our seamen, still in freedom, would forbid us to give. This was the most trying of all circumstances, and drew from them the most afflicting reproaches.

It was a twelve month afterwards before the money could be deposited in Paris, and the negotiation be actually put into train. In the mean time the general had received information from Algiers of a very considerable change of prices there. Within the last two or three years the Spaniards, the Neapolitans, and the Russians, had redeemed at exorbitant sums. Slaves were become scarce, and would hardly be

sold at any price. Still he entered on the business with an assurance of doing the best in his power; and he was authorized to offer as far as three thousand livres, or five hundred and fifty-five dollars a man. He wrote immediately to consult a confidential agent at Marseilles, on the best mode of carrying this business into effect; from whom he received the answer No. 2. hereto annexed.

Nothing further was known of his progress or prospects when the House of Representatives were pleased, at their last session, to refer the petition of our captives at Algiers to the Secretary of State. The preceding narrative shows that no report could have then been made without risking the object, of which some hopes were still entertained. Later advices, however, from the charge des affaires of the United States, at Paris, inform us, that these measures, though not yet desperate, are not to be counted on. Besides the exorbitance of price, before feared, the late transfer of the lands and revenues of the clergy in France to the publick, by withdrawing the means, seems to have suspended the proceedings of the Mathurins in the purposes of their institution.

It is time, therefore, to look about for something more promising, without relinquishing, in the mean while, the chance of success through them. Endeavours to collect information, which have been continued a considerable time, as to the ransoms which would probably be demanded from us, and those actually paid by other nations, enable the Secretary of State to lay before the President the following short view, collected from original papers now in his possession, or from information delivered to him personally. Passing over the ransoms of the Mathurins, which are kept far below the common level by special circumstances:

In 1786, the dey of Algiers demanded from our agent 59,496 dollars for 21 captives, which was 2833 dollars a man. The agent flattered himself they could be ransomed for 1200 dollars apiece. His secretary informed us, at the same time, that Spain had paid 1600 dollars.

In 1787, the Russians redeemed at 1546 dollars a man.

In 1788, a well informed inhabitant of Algiers assured the minister plenipotentiary of the United States at Paris, that no nation had redeemed since the Spanish treaty, at less than from 250 to 300 pounds sterling, the medium of which is 1237 dollars. Captain O'Brien, at the same date, thinks we must pay 1800 dollars, and mentions a Savoy captain, just redeemed at 4074 dollars.

In 1789, Mr. Logie, the English consul at Algiers, informed a person who wished to ransom one of our common sailors, that he would cost from 450 to 500 pounds sterling, the mean of which is 2137 dollars. In December of the same year, captain O'Brien thinks our men will now cost 2920 dollars each, though a Jew merchant believes he could get them for 2264 dollars.

In 1790, July 9th, a Mr. Simpson, of Gibraltar, who, at some particular request, had taken pains to find for what sum our captives could be redeemed, finds that the fourteen will cost  $34,792\frac{2}{3}$  dollars, which is 2435 dollars a man. At the same date, one of them, a Scotch boy, a common mariner, was actually redeemed at 8000 livres, equal to 1481 dollars, which is within 19 dollars of the price Simpson states for common men : and the charge des affaires of the United States at Paris is informed that the whole may be redeemed at that rate, adding fifty per cent. on the captains, which would bring it to 1571 dollars a man.

It is found then that the prices are 1200, 1237, 1481, 1546, 1571, 1600, 1800, 2137, 2264, 2485, 2833, and 2920 dollars a man, not noticing that of 4074 dollars, because it was for a captain.

In 1786, there were 2200 captives in Algiers, which in 1789, had been reduced by death or ransom to 655. Of ours, six have died, and one has been ransomed by his friends.

From these facts and opinions some conjecture may be formed of the terms on which the liberty of our citizens may be obtained.

But should it be thought better to repress force by force, another expedient for their liberation may perhaps offer. Captures made on the enemy may perhaps put us into possession of some of their mariners, and exchange be substituted for ransom. It is not indeed a fixed usage with them to exchange prisoners. It is rather their custom to refuse it. However such exchanges are sometimes effected, by allowing them more or less of advantage. They have sometimes accepted of two Moors for a christian, at others they have refused five or six for one. Perhaps Turkish captives may be objects of greater partiality with them, as their government is entirely in the hands of Turks, who are treated in every instance as a superior order of beings. Exchange too, will be more practicable in our case, as our captives have not been sold to private individuals, but are retained in the hands of the government.

The liberation of our citizens has an intimate connection with the liberation of our commerce in the Mediterranean, now under the consideration of Congress. The distresses of both proceed from the same cause, and the measures which shall be adopted for the relief of the one, may, very probably, involve the relief of the other.

TH: JEFFERSON, Secretary of State.

Dec. 28, 1790.

No. 1.

*Extract of a Letter from Mr. John Lamb. May 20, 1786.*

"I HERE give your excellency an account of the prices of our unfortunate people, and it is as follows, viz.

3 Captains,	6,000	dolls. each per head,	18,000
2 Mates,	4,000	do. do. - -	8,000
2 Passengers,	4,000	do. do. - -	8,000
14 Sailors,	1,400	do. do. - -	19,600

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21 amounts to the enormous sum of 53,600  
 Eleven per cent. to be added, according to custom, 5,896

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Is Spanish milled dollars 59,496

So that your excellency sees how far beyond your expectation the sum amounts, which renders me incapable of acting until further orders. The price the Spaniards are giving for their people is little short of what is charged us; and they have eleven hundred men and some upwards in Algiers. It will cost Spain more than one million and one half of dollars for their slaves only. The peace of Spain and their slaves will amount to more than three millions of dollars."

No. 2.

*Answer of the Agent of the Mathurins to his General. Aix, Aug. 19, 1789.*

MY LORD,—Being at Aix for some time in order to make use of the baths, I there received the letter which you did me the honour to write me. I find some great difficulties in the way of executing the redemption about which you speak. It does not appear to me possible to give such colour to our proceedings with the Algerines as to make them believe that the United States take no part in the negotiation, while their

subjects only should be redeemed. As to the price of 2500 livres per head, it will not suffice for the voracity of these covetous people, either because they have more need of slaves than money, since the general redemption of the French and Spanish captives, or that having humiliated Spain, and fearing little from France, they have arbitrarily raised the rate of the slaves; and notwithstanding the tenour of the treaties with France, the office at Marseilles was, the last year, obliged to pay for one slave 4000 livres. It is true that the number redeemed by France in 1785 did not amount to 100 louis per head, but the king made the agreement in his own name, and in a favourable moment he obtained a piece of politeness from the dey; a politeness which we cannot flatter ourselves with seeing again renewed, especially at a time when the regency carries its pretensions so highly against France, as to lead us to fear lest some rupture should follow, which can perhaps be avoided only by new sacrifices. Supposing these difficulties removed, you cannot take upon yourselves the said redemption without a permission from the court, especially if you wish to appear as acting by virtue of the order for the redemption. I am persuaded that the ministry being first informed will not refuse you the said permission.

It will then be necessary to have a confidential person on the spot to act secretly, so as not to irritate the French slaves, who might rise against the nation, and sound the intentions of the regency with respect to the price. The *Pere Terillo* governour of the hospital is a Spaniard, and unfit for this negotiation. M. Parct, the only French merchant and manager of the house of Messrs. Gimen at Algiers might execute the commission, but this house will always create a suspicion that the United States are about agreeing for the redemption.

I hardly venture to propose an idea which strikes me, but it is the best I have. Could you not send a religious person, not as a redemptioner, but only as chaplain of the hospital of slaves, for which he might perform the necessary functions? M. Gache appears to me the most proper and best calculated to conduct an affair, the success of which I so much desire as well on account of the interest you take in it as for the satisfaction of Mr. Jefferson. I would not wish to put myself in the way on account of my age, though I speak Italian and Spanish, which is used at Algiers, and especially in the hospital. However if you should not find a better person, I shall still undertake this voyage in order to

give you some marks of my submission, and the desire which I have to concur in your zeal for the love of redemption and good of humanity.

The voyage of a religious person would occasion some expense, but it cannot be considerable, because he might lodge in the hospital, and there would be no commission fees to pay in case of success. Not being near enough to confer with M. Gache, I address the present to him that he may transmit it to you with the observations he may make upon it.

FERRINE, Dep. Gnal.

### No. 3.

*Extract from a Letter of June 4, 1790, from William Short, Esq. Charge des Affaires for the United States at the Court of France, to the Secretary of State.*

“THE affair of our captives, I fear, will never be arranged in the present channel. Immediately on the receipt of your letter I wrote to the general of the Mathurins to let him know how much you had this affair at heart, and to beg he would inform me how it stood at present. He was gone into the country, but I suppose I shall hear from him in a few days.”

*Extract of a Letter from the same to the same. June 25, 1790.*

“SINCE my last I have seen the general of the Mathurins, who gives little hopes of any thing being done for our captives through his channel, although he continues assurances of his zeal in case of any opportunity presenting itself; and I am persuaded he may be counted on as to these assurances. He had begun by transmitting a small sum of money to a person of confidence at Algiers to relieve the more pressing necessities of the captives. The person who was charged with this commission found on inquiry that the captives received a daily allowance, which rendered this relief unnecessary, and therefore returned the money. He found also that the opinion at Algiers was, that the allowance of the prisoners was made by the United States; an opinion which would necessarily augment the difficulty of their redemption. The general added, that the critical situation in which the religious orders had been for some time had rendered it impossible for him to take any step in this business; that he hoped however some arrangement would be soon made which

would enable him to resume those pious occupations; and that he should be always ready to offer his ministry in behalf of the American captives. The supplies which they have received came certainly from the Spanish consul. I transmitted some time ago to Mr. Jay an account of them which was sent me by one of the captives.

“The general of the Mathurins considered those supplies too considerable, as they would necessarily excite at the same time the suspicions and the avarice of the Algerines. It would have the appearance of cruelty to forbid further supplies from any person whatsoever, and to let the prisoners depend as it were on the charity of the Mathurins, who might be furnished with small sums from time to time for that purpose. But it is perhaps the only means of shortening their captivity. Whoever remains here should be authorized fully to act according to circumstances with respect to the captives.”

*Extract of a Letter from the same to the same. July 7, 1790.*

“My last letters will have informed you of the present situation of the business relative to the American captives at Algiers. You will have seen that nothing has been done, or possible to be done, for their redemption; still I will leave nothing untried, and will write you regularly as you desire respecting it.

I omitted mentioning above that the number of our prisoners at Algiers is now reduced to fourteen, a Scotch boy who was among them having been redeemed by the intervention of the English consul. The price was somewhat more than 7000 livres; but additional and unavoidable expenses raised it on the whole to about 8000 livres. The person of whom I spoke in the beginning of this letter told me that he thought the remaining captives might be redeemed at the same price for the common sailors, and about £ 1200 for each of the captains. He added, that the Spanish consul was at present in the greatest favour with the regency, and would be the most proper person for being charged with such a commission. The same person told me that he had understood the present emperor of Morocco had begun his reign by showing dispositions to observe the treaties made by his predecessor. He thought it probable that ours would be continued. In general, however, I have understood that we should be obliged to renew it. This is the opinion also of Mr. Carmichael.”

## No. 4.

*Extract of a Letter from Mr. John Lamb to the Honourable Thomas Jefferson. Algiers, March 29, 1786.*

"I AM sure by the best information the sum will by no means answer our object if the amount is not greatly augmented. It is my duty to advise to abandon the undertaking, as it will be entirely in vain to persevere. It is lost money, the expenses that arise on the attempt. The last amount that I can give please to let me know. I shall wait at Carthagea for the same. The people will cost for their redemption at least twelve hundred hard dollars per head. The number is twenty-one. Your excellency sees how feeble we are."

## No. 5.

*Extract of a Letter from Mr. Paul Randal to the Honourable Thomas Jefferson. Alicant, April 2, 1786.*

"As the money is paid according to the treaty, the dey has set the sum of 3600 dollars on every Spanish captain; 3000 for each mate or pilot, and 1200 for the private seamen and soldiers."

## No. 6.

*Extract of a Letter from Richard O'Brien to the Honourable Thomas Jefferson. Algiers, June 2, 1788.*

"If any one is redeemed, it is at a very exorbitant price. A few days ago an old Savoy captain of a merchant vessel was redeemed for the sum of 2150 Algerine chequins, which is equal to £ 967 10 sterling, and even with that price it was with much time the dey was prevailed on to let him be redeemed; and I think that sailors will be as high as £ 400 sterling, as they are very scarce here at present, and much wanted to do the duty for the publick."

## No. 7.

*Extract of a Letter from Richard O'Brien to the Honourable Thomas Jefferson. Algiers, Dec. 12, 1789.*

"IN December, 1789, there are in Algiers 2 mas- }	\$12,000
ters at the dey's price,	
2 mates, at 4000 dollars each,	8,000
11 mariners, at 1500 dollars each,	16,500
	<hr/>
	\$36,500
20 per cent. a duty on slaves	1,825
	<hr/>

Agreeable to the dey's price in 1786, the whole cost is \$38,325

A Mr. Joseph Cowen Bockerie, the principal Jew merchant of Algiers, assures me that he will engage, and well knows that he could obtain the Americans released from slavery on the following terms, viz.

For 2 masters, at 2000 sequins each,	\$8,000
2 mates at 3000 dollars each,	6,000
11 mariners, at 1300 dollars each,	14,300
	<hr/>

	First cost,	28,300
Fees and duties to the regency amounting to 20 per cent.		1,415
		<hr/>

Spanish dollars, 29,715

Mr. Bockerie says that at the very *furthest* he would procure us at 2,000 dollars each, which would be in all 30,000 dollars, or 6,750 pounds sterling; and the Dutch and Spanish consuls are of the same opinion."

## No. 8.

*Extract of a Letter from James Simpson. Gibraltar, Aug. 25, 1790.*

"HAVING lately been desired to inquire, by means of my correspondents at Algiers, how many Americans remained there, and the sum [that] would be demanded for their ransom, I take the liberty of enclosing for your information copy of the return made me, and to say, that as the gentleman encharged me to make this inquiry, wrote in a *style* as if the generous and humane idea of ransom flowed from a private source, I

much fear, as the sum demanded is considerable, I shall not have the happiness of being encharged by them with directions for carrying it into execution."

## ENCLOSED.

*List of American Prisoners at Algiers, July 9, 1790, with the sums demanded by the Regency for their Ransom.*

Crew of the ship *Dolphin*, captured July 30, 1785.

Richard O'Brien, captain—ransom demanded	2,000
Andrew Montgomery, mate, - - -	1,500
Jacob Tessanior, French passenger, -	2,000
William Paterson, seaman, (keeps a tavern) -	1,500
Philip Sloan, - - - - -	725
Peleg Lorin, - - - - -	725
John Robertson, - - - - -	725
James Hall, - - - - -	725

Crew of the schooner *Mary*, taken July 25, 1785.

Isaac Stephens, captain, - - -	2,000
Alexander Forsyth, mate, - - -	1,500
James Cathcart, seaman, (keeps a tavern,) -	900
George Smith, (in the king's house) -	725
John Gregory, - - - - -	725
James Hermet, - - - - -	725

Algerine zequins	16,475
Duty on the above sum 10 per cent.	1,647 $\frac{1}{2}$
Sundry gratifications to officers of the dey's household and regency, equal to 17 $\frac{1}{8}$ zs. each person,	240 $\frac{1}{8}$
34792 $\frac{28}{38}$ Mexican dollars at 38 mozunas each, are zequins - - - - -	18,362 $\frac{5}{8}$

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO FRANCE. JAN. 17, 1791.

I LAY before you a letter from his most christian majesty, addressed to the President and members of Congress of the United States of America.

GEORGE WASHINGTON.

## TRANSLATION.

Very dear great Friends and Allies,

WE have received the letter by which you inform us of the new mark of confidence that you have shown to Mr. Jefferson, and which puts a period to his appointment of minister plenipotentiary at our court.

The manner in which he conducted during his residence with us has merited our esteem and entire approbation, and it is with pleasure that we now give him this testimony of it.

It is with the most sincere pleasure that we embrace this opportunity of renewing those assurances of regard and friendship which we feel for the United States in general, and for each of them in particular under their influence. We pray God that he will keep you, very dear friends and allies, under his holy and beneficent protection.

Done at Paris, this 11th September, 1790.

Your good friend and ally, LOUIS.

MONTMORIN. [Seals.]

The United States of North America.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO FRANCE. JAN. 19, 1791.

I LAY before you a representation of the charge des affaires of France, made by order of his court, on the acts of Congress of the 20th of July, 1789 and 1790, imposing an extra tonnage on foreign vessels, not excepting those of that country; together with the report of the Secretary of State thereon: and I recommend the same to your consideration, that I may be enabled to give to it such answer as may best comport with the justice and the interests of the United States.

GEO. WASHINGTON.

## DOCUMENTS.

THE Secretary of State having received from the charge des affaires of France a note on the tonnage payable by

French vessels in the ports of the United States, has had the same under his consideration, and thereupon makes the following report to the President of the United States :

The charge des affaires of France, by a note of the 13th of December represents, by order of his court, that they consider so much of the acts of Congress of July 20, 1789 and 1790, as imposes an extraordinary tonnage on foreign vessels, without excepting those of France, to be in contravention of the fifth article of the treaty of amity and commerce between the two nations ; that this would have authorized on their part a proportional modification in the favours granted to the American navigation ; but that his sovereign had thought it more conformable to his principles of friendship and attachment to the United States to order him to make representations thereon, and to ask, in favour of French vessels, a modification of the acts which impose an extraordinary tonnage on foreign vessels.

The Secretary of State, in giving in this paper to the President of the United States, thinks it his duty to accompany it with the following observations.

The 3d and 4th articles of the treaty of amity and commerce between France and the United States, subject the vessels of each nation to pay, in the ports of the other, only such duties as are paid by the most favoured nation ; and give them reciprocally all the privileges and exemptions in navigation and commerce, which are given by either to the most favoured nations. Had the contracting parties stopped here, they would have been free to raise or lower their tonnage as they should find it expedient ; only taking care to keep the other on the footing of the most favoured nation. The question then is whether the fifth article, cited in the note is any thing more than an application of the principle comprised in the 3d and 4th to a particular object ? or whether it is an additional stipulation of something not so comprised ?

1. That it is merely an application of a principle comprised in the preceding articles, is declared by the express words of the article, to wit : “ *Dans l'exemption cidessus est nommément compris, &c.* ” “ *in the above exemption is particularly comprised* the imposition of 100 sols per ton established in France on foreign vessels.” Here then is at once an express declaration, that the exemption from the duty of 100 sols is *comprised* in the 3d and 4th articles, that is to say, it was one of the exemptions enjoyed by the most favoured nations, and as such, extended to us by those articles. If the exemption spoken of in this 1st member of the 5th arti-

cle was *comprised* in the 3d and 4th articles, as is expressly declared, then the reservation by France out of that exemption (which makes the 2d member of the same article) *was also comprised*, that is to say, if *the whole* was comprised, *the part* was comprised. And if this reservation of France in the 2d member was comprised in the 3d and 4th articles, then the counter reservation by the United States (which constitutes the 3d and last member of the same article) was also comprised: Because it is but a corresponding portion of a similar whole on our part, which had been comprised by the same terms with theirs.

In short, the whole article relates to a particular duty of 100 sols laid by some antecedent law of France on the vessels of foreign nations, relinquished as to the most favoured, and consequently to us. It is not a new and additional stipulation then, but a declared application of the stipulations comprised in the preceding articles to a particular case by way of greater caution.

The doctrine laid down generally in the 3d and 4th articles, and exemplified specially in the 5th, amounts to this: "The vessels of the most favoured nations coming from foreign ports are exempted from the duty of 100 sols: therefore you are exempted from it by the 3d and 4th articles. The vessels of the most favoured nations coming coastwise, pay that duty: therefore you are to pay it by the 3d and 4th articles. We shall not think it unfriendly in you to lay a like duty on coasters, because it will be no more than we have done ourselves. You are free also to lay that or any other duty on vessels coming from foreign ports; provided they apply to all other nations, even the most favoured. We are free to do the same under the same restriction. Our exempting you from a duty which the most favoured nations do not pay, does not exempt you from one which they do pay."

In this view it is evident that the 5th article neither enlarges nor abridges the stipulations of the 3d and 4th. The effect of the treaty would have been precisely the same had it been omitted altogether; consequently it may be truly said that the reservation by the United States in this article is completely useless. And it may be added, with equal truth, that the equivalent reservation by France is completely useless; as well as her previous abandonment of the same duty; and in short the whole article. Each party then remains free to raise or lower its tonnage, provided the change operates on all nations even the most favoured.

Without undertaking to affirm, we may obviously conjecture, that this article has been inserted on the part of the United States from an over caution to guard, *nommément, by name*, against a particular aggrievance, which they thought they could never be too well secured against: and that has happened, which generally happens; doubts have been produced by the too great number of words used to prevent doubt.

11. The court of France, however, understands this article as intended to introduce something to which the preceding articles had not reached: and not merely as an application of them to a particular case. Their opinion seems to be founded on the general rule, in the construction of instruments, to leave no words merely useless, for which any rational meaning can be found. They say that the reservation by the United States of a right to lay a duty equivalent to that of the 100 sols reserved by France, would have been completely useless, if they were left free, by the preceding articles, to lay a tonnage to any extent whatever; consequently that the reservation of a part proves a relinquishment of the residue.

If some meaning, and such a one, is to be given to the last member of the article, some meaning, and a similar one, must be given to the corresponding member. If the reservation by the United States of a right to lay an equivalent duty, implies a relinquishment of their right to lay any other, the reservation by France of a right to continue the specified duty to which it is an equivalent, must imply a relinquishment of the right on her part to lay or continue any other. Equivalent reservations by both, must imply equivalent restrictions on both. The exact reciprocity stipulated in the preceding articles, and which pervades every part of the treaty, ensures a counter right to each party for every right ceded to the other.

Let it be further considered that the duty called *tonnage* in the United States is in lieu of the duties for anchorage, for the support of buoys, beacons and light houses, to guide the mariner into harbour, and along the coast, which are provided and supported at the expense of the United States; and for fees to measurers, weighers, guagers, &c. who are paid by the United States; for which articles, among many others (light house money excepted) duties are paid by us in the ports of France under their specifick names. That government has hitherto thought these duties consistent with the treaty; and consequently the same duties under a general,

instead of specifick names with us, must be equally consistent with it; it is not the name, but the thing which is essential. If we have renounced the right to lay any port duties, they must be understood to have equally renounced that of either laying new or continuing the old. If we ought to refund the port duties received from their vessels, since the date of the act of Congress, they should refund the port duties they have received from our vessels since the date of the treaty; for nothing short of this is the reciprocity of the treaty.

If this construction be adopted then, each party has for ever renounced the right of laying any duties on the vessels of the other coming from any foreign port, or more than 100 sols on those coming coastwise. Could this relinquishment be confined to the two contracting parties alone, the United States would be the gainers; for it is well known that a much greater\* number of American than of French vessels are employed in the commerce between the two countries: but the exemption, once conceded by the one nation to the other, becomes immediately the property of all others, who are on the footing of the most favoured nations. It is true that those others would be obliged to yield the same compensation, that is to say, to receive our vessels duty free. Whether we should gain or lose in the exchange of the measure with them, is not easy to say.

Another consequence of this construction will be, that the vessels of the most favoured nations, paying no duties, will be on a better footing than those of natives, which pay a moderate duty; consequently, either the duty on these also must be given up, or they will be supplanted by foreign vessels in our own ports.

The resource then of duty on vessels for the purposes either of revenue or regulation, will be for ever lost to both. It is hardly conceivable that either party looking forward to all these consequences, would see their interest in them.

III. But if France persists in claiming this exemption, what is to be done? The claim indeed is couched in mild and friendly terms; but the idea leaks out that a refusal would authorize them to modify proportionally the favours granted by the same article to our navigation. Perhaps they may do what we should feel much more severely; they may turn their eyes to the favours granted us by their arrears

\* By an official paper from the bureau of the balance of commerce of France, we find that of the ships which entered the ports of France from the United States in the year 1789, only 13, amounting to 2,105 tons, were French, and 163, making 24,173 tons, were American.

of December 29, 1787, and December 7, 1788, which hang on their will alone, unconnected with the treaty. Those arrets, among other advantages, admit our whale oils to the exclusion of that of all other foreigners. And this monopoly procures a vent for seven twelfths of the produce of that fishery, which experience has taught us could find no other market. Near two thirds of the produce of our cod fisheries too have lately found a free vent in the colonies of France.\* This indeed has been an irregularity growing out of the anarchy reigning in those colonies. Yet the demands of the colonists, even of the government party among them, (if an auxiliary disposition can be excited by some marks of friendship and distinction on our part) may perhaps produce a constitutional concession to them to procure their provisions at the cheapest market; that is to say, at ours.

Considering the value of the interests we have at stake, and considering the smallness of difference between foreign and native tonnage, on French vessels alone, it might perhaps be thought advisable to make the sacrifice asked; and especially if it can be so done as to give no title to other the most favoured nations to claim it. If the act should put French vessels on the footing of those of natives, and declare it to be in consideration of the favours granted us by the arrets of December 29, 1787, and December 7, 1788, (and perhaps this would satisfy them) no nation could then demand the same favour without offering an equivalent compensation. It might strengthen, too, the tenure by which those arrets are held, which must be precarious so long as they are gratuitous.

It is desirable in many instances to exchange mutual advantages by legislative acts rather than by treaty; because the former, though understood to be in consideration of each other, and therefore greatly respected, yet when they become too inconvenient, can be dropped at the will of either party: whereas stipulations by treaty are for ever irrevocable.

\* Abstract of the produce of the fisheries exported from the United States, from August 20, 1789, to August 14, 1790, in which is omitted one quarter's exportations from Boston, Plymouth, Dighton, Penobscot, Frenchman's Bay, Machias, and New York, of which the returns are not received.

	Cod fishery.	Whale fishery.	Both fisheries.
France and the French			
West Indies	\$586,167	\$131,906	\$718,073
The rest of the world	307,097	101,306	408,403
	<hr/>	<hr/>	<hr/>
Whole produce	893,264	233,212	1,126,476

cable but by joint consent, let a change of circumstances render them ever so burdensome.

On the whole, if it be the opinion that the first construction is to be insisted on, as ours, in opposition to the second, urged by the court of France, and that no relaxation is to be admitted, an answer shall be given to that court defending that construction, and explaining in as friendly terms as possible the difficulties opposed to the exemption they claim.

2. If it be the opinion that it is advantageous for us to close with France in her interpretation of a reciprocal and perpetual exemption from tonnage, a repeal of so much of the tonnage law will be the answer.

3. If it be thought better to waive rigorous and nice discussions of right, and to make the modification an act of friendship and of compensation for favours received, the passage of such a bill will then be the answer.

TH: JEFFERSON.

January 13, 1791.

#### TRANSLATION.

*L. G. Otto to the Secretary of State. Philadelphia, December 13, 1790.*

SIR,—During the long stay you made in France, you had opportunities of being satisfied of the favourable dispositions of his majesty to render permanent the ties that united the two nations, and to give stability to the treaties of alliance and of commerce, which form the basis of this Union. These treaties were so well maintained by the congress formed under the ancient confederation, that they thought it their duty to interpose their authority whenever any laws made by individual states appeared to infringe their stipulations, and particularly in 1785, when the states of New Hampshire and of Massachusetts had imposed an extraordinary tonnage on foreign vessels, without exempting those of the French nation. The reflections that I have the honour to address to you in the subjoined note, being founded on the same principles, I flatter myself that they will merit on the part of the government of the United States the most serious attention.

I am with respect, &c.

L. G. OTTO.

## TRANSLATION.

*L. G. Otto to the Secretary of State.*

NOTE.—The underwritten charge des affaires of France has received the express order of his court to represent to the United States, that the act passed by Congress the 20th July, 1789, and renewed the 20th July of the present year, which imposes an extraordinary tonnage on foreign vessels, without excepting French vessels, is directly contrary to the spirit and to the object of the treaty of commerce which unites the two nations, and of which his majesty has not only scrupulously observed the tenour, but of which he has extended the advantages by many regulations very favourable to the commerce and navigation of the United States.

By the 5th article of this treaty the citizens of these States are declared exempt from the tonnage duty imposed in France on foreign vessels; and they are not subject to that duty but in the coasting business. Congress has reserved the privilege of establishing *a duty equivalent to this last*, a stipulation founded on the state in which matters were in America at the time of the signature of the treaty. There did not exist at that epoch any duty on tonnage in the United States.

It is evident that it was the non-existence of this duty, and the motive of a perfect reciprocity stipulated in the preamble of the treaty, that had determined the king to grant the exemption contained in the article 5th; and a proof that Congress had no intention to contravene this reciprocity is, that *it only reserves a privilege of establishing on the coasting business, a duty equivalent to that which is levied in France.* This reservation would have been completely useless, if by the words of the treaty Congress thought themselves at liberty to lay *any* tonnage they should think proper, on French vessels.

The undersigned has the honour to observe that this contravention of the 5th article of the treaty of commerce, might have authorized his majesty to modify proportionably the favours granted by the same article to the American navigation; but the king, always faithful to the principles of friendship and attachment to the United States, and desirous of strengthening more and more the ties which subsist so happily between the French nation and these States, thinks it more conformable to these views to order the undersigned to make representations on this subject, and to ask in favour of French vessels a modification of the act which imposes an extraordinary tonnage on foreign vessels. His majesty does

not doubt but that the United States will acknowledge the justice of this claim, and will be disposed to restore things to the footing on which they were at the signature of the treaty of the 6th February, 1778.

L. G. OTTO.

Philadelphia, December 13, 1790.

TRANSLATION.

*L. G. Otto to the Secretary of State. New York, January 8, 1791.*

SIR,—I have the honour herewith to send you a letter from the king to Congress, and one which M. de Montmorin has written to yourself. You will find therein the sincere sentiments with which you have inspired our government, and the regret of the minister in not having a more near relation of correspondence with you. In these every person who has had the advantage of knowing you in France participates.

At the same time it gives me pain, sir, to be obliged to announce to you that the complaints of our merchants on the subject of the tonnage duty increase, and that they have excited not only the attention of the king, but that of several departments of the kingdom. I have received new orders to request of the United States a decision on this matter, and to solicit, in favour of the aggrieved merchants, the restitution of the duties which have already been paid. I earnestly beg of you, sir, not to lose sight of an object which, as I have already had the honour to tell you verbally, is of the greatest importance for cementing the future commercial connections between the two nations.

In more particularly examining this question you will perhaps find that motives of convenience are as powerful as those of justice to engage the United States to give to his majesty the satisfaction which he requires. At least twice as many American vessels enter the ports of France as do those of France the ports of America. The exemption of the tonnage duty then is evidently less advantageous for the French than for the navigators of the United States. Be this as it may, I can assure you, sir, that the delay of a decision in this respect, by augmenting the just complaints of the French merchants will only augment the difficulties. I therefore beg of you to enable me, before the sailing of the packet which will take place towards the last of this month,

to give to my court a satisfactory answer. I have the honour  
to be, &c.

L. G. OTTO.

His Excellency M. Jefferson,  
Secretary of State.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS,  
FRENCH LETTER AND DECREE RELATIVE TO DEATH OF DR.  
FRANKLIN. JAN. 26, 1791.

I LAY before you the copy of a letter from the President of the national assembly of France to the President of the United States, and of a decree of that assembly which was transmitted with the above mentioned letter.

GEORGE WASHINGTON.

### TRANSLATION.

MR. PRESIDENT,—The national assembly has worn, during three days, mourning for Benjamin Franklin, your fellow citizen, your friend, and one of the most useful of your co-operators in the establishment of American liberty. They charge me to communicate their resolution to the Congress of the United States: In consequence I have the honour to address to you, Mr. President, the extract from the proceedings of their session of the 11th, which contains that deliberation.

“The national assembly have not been stopped in their decree by the consideration that Franklin was a stranger. Great men are the fathers of universal humanity. Their loss ought to be felt as a common misfortune by all the tribes of the great human family; and it belongs without doubt to a nation still affected by all the sentiments which accompany the achievement of their liberty, and which owes its enfranchisement essentially to the progress of the publick reason, to be the first to give the example of the filial gratitude of the people towards their true benefactors. Besides that these ideas and this example are so proper to disseminate a happy emulation of patriotism, and thus to extend more and more the empire of reason and virtue, which could not fail

promptly to determine a body devoted to the most important legislative combinations, charged with assuring to the French the rights of men and citizens, it has believed without doubt that fruitful and great truths were likewise numbered among the rights of man.

“The name of Benjamin Franklin will be immortal in the records of freedom and philosophy ; but it is more particularly dear to a country, where, conducted by the most sublime mission, this venerable man knew very soon to acquire an infinite number of friends and admirers, as well by the simplicity and sweetness of his manners, as by the purity of his principles, the extent of his knowledge, and the charms of his mind. It will be remembered that every success which he obtained in his important negotiation were applauded and celebrated (so to express it) all over France, as so many crowns conferred on genius and virtue. Even then the sentiments of our rights existed in the bottom of our souls. It was easily perceived that it feelingly mingled in the interest which we took in behalf of America, and in the publick vows which we preferred for your liberty. At last the hour of the French has arrived. We love to think that the citizens of the United States have not regarded with indifference our first steps towards liberty. Twenty-six millions of men breaking their chains, and seriously occupied in giving themselves a durable constitution, are not unworthy the esteem of a generous people who have preceded them in that noble career. We hope they will learn, with interest, the funeral homage which we have rendered to the Nestor of America. May this solemn act of fraternal friendship serve more and more to bind the tie which ought to unite two free nations. May the common enjoyment of liberty shed itself over the whole globe, and become an indissoluble chain of connection among all the people of earth. For ought they not to perceive, that they will march more stedfastly and more certainly to their true happiness in understanding and loving each other, than in being jealous and fighting. May the Congress of the United States and the national assembly of France be the first to furnish this fine spectacle to the world. And may the individuals of the two nations connect themselves by a mutual affection worthy of the friendship which unites two men at this day the most illustrious by their exertions for liberty, Washington and La Fayette.

“Permit me Mr. President to offer on this occasion my particular homage of esteem and admiration. I have the honour to be, &c. SIEYES, President.”

Paris, June 20, 1790.

*Decree of the National Assembly of the 11th of June, 1790.*

THE national assembly decree, that their members shall wear, during three days, mourning for Benjamin Franklin, to commence on Monday next; that the discourse pronounced on this occasion be printed; and that the President write to the American Congress in the name of the national assembly.

Compared with the original by us president and secretaries of the national assembly at Paris, 20th June, 1790.

SIEYES, President.

DUMOUCRET,

GOURDAU,

FELIX DE PARDIEU.

} Secretaries.

[L. s.]

Paris, June 20, 1790.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS,  
RELATIVE TO GREAT BRITAIN. FEB. 14, 1791.

Soon after I was called to the administration of the government, I found it important to come to an understanding with the court of London on several points interesting to the United States, and particularly to know whether they were disposed to enter into arrangements, by mutual consent, which might fix the commerce between the two nations on principles of reciprocal advantage. For this purpose I authorized informal conferences with their ministers; and from these I do not infer any disposition, on their part, to enter into any arrangements merely commercial. I have thought it proper to give you this information, as it might at some time have influence on matters under your consideration.\*

*Gentlemen of the Senate,*—Conceiving that in the possible event of a refusal of justice, on the part of Great Britain, we should stand less committed should it be made to a private rather than to a publick person, I employed Mr. Gouverneur Morris, who was on the spot, and without giving him any definite character, to enter informally into the conferences before mentioned. For your more particular information, I lay before you the instructions I gave him, and those parts of his communications wherein the British ministers appear, either in conversation or by letter. These are two letters

[\* Thus far this message has been heretofore published.]

from the duke of Leeds to Mr. Morris, and three letters of Mr. Morris, giving an account of two conferences with the duke of Leeds, and one with him and Mr. Pitt. The sum of these is, that they declare without scruple they do not mean to fulfil what remains of the treaty of peace to be fulfilled on their part (by which we are to understand the delivery of the posts and payment for property carried off) till performance on our part, and compensation where the delay has rendered the performance now impracticable; that on the subject of a treaty of commerce, they avoided direct answers, so as to satisfy Mr. Morris they did not mean to enter into one unless it could be extended to a treaty of alliance offensive and defensive, or unless in the event of a rupture with Spain.

As to the sending a minister here, they made excuses at the first conference, seem disposed to it in the second, and in the last express an intention of so doing.

Their views being thus sufficiently ascertained, I have directed Mr. Morris to discontinue his communications with them.

GEORGE WASHINGTON.

*New York, October 13, 1789.*

SIR,—It being important to both countries, that the treaty of peace between Great Britain and the United States should be observed and performed with perfect and mutual good faith, and that a treaty of commerce should be concluded by them, on principles of reciprocal advantage to both, I wish to be ascertained of the sentiments and intentions of the court of London on these interesting subjects.

It appears to me most expedient to have these inquiries made informally, by a private agent; and understanding that you will soon be in London, I desire you in that capacity, and on the authority and credit of this letter, to converse with his Britannick majesty's ministers on these points, viz. Whether there be any and what objections to now performing those articles in the treaty which remain to be performed on his part; and whether they incline to a treaty of commerce with the United States, on any and what terms.

This communication ought regularly to be made to you by the Secretary of State; but that office not being at present filled, my desire of avoiding delays induces me to make it under my own hand. It is my wish to promote harmony and mutual satisfaction between the two countries; and it would give me great pleasure to find that the result of your

agency in the business now committed to you, will conduce to that end. I am, &c.

GEORGE WASHINGTON.

Gouverneur Morris, Esq.

*New York, October 13, 1789.*

SIR,—My letter to you herewith enclosed will give you the credence necessary, to enable you to do the business which it commits to your management, and which I am persuaded you will readily undertake.

Your inquiries will commence by observing, that as the present constitution of government, and the courts established in pursuance of it, remove the objections heretofore made to putting the United States in possession of their frontier posts, it is natural to expect from the assurances of his majesty and the national good faith, that no unnecessary delays will take place. Proceed then to press a speedy performance of the treaty respecting that object.

Remind them of the article by which it was agreed, that negroes belonging to our citizens should not be carried away; and of the reasonableness of making compensation for them. Learn, with precision if possible, what they mean to do on this head.

The commerce between the two countries you well understand. You are apprised of the sentiments and feelings of the United States on the present state of it; and you doubtless have heard, that in the late session of Congress a very respectable number of both Houses were inclined to a discrimination of duties unfavourable to Britain; and that it would have taken place but for conciliatory considerations, and the probability that the late change in our government and circumstances would lead to more satisfactory arrangements.

Request to be informed therefore whether they contemplate a treaty of commerce with the United States, and on what principles or terms in general. In treating this subject, let it be strongly impressed on your mind, that the privilege of carrying our productions in our vessels to their islands, and bringing in return the productions of those islands to our own ports and markets, is regarded here as of the highest importance; and you will be careful not to countenance any idea of our dispensing with it in a treaty. Ascertain if possible their views on this point; for it would not be expedient to commence negotiations without previously

having good reasons to expect a satisfactory termination of them.

It may also be well for you to take a proper occasion of remarking, that their omitting to send a minister here, when the United States sent one to London, did not make an agreeable impression on this country ; and request to know what would be their future conduct on similar occasions.

It is in my opinion very important that we avoid errors in our system of policy respecting Great Britain ; and this can only be done by forming a right judgment of their disposition and views. Hence you will perceive how interesting it is that you obtain the information in question, and that the business be so managed, as that it may receive every advantage, which abilities, address and delicacy can promise and afford. I am, &c. GEORGE WASHINGTON.  
Gouverneur Morris, Esq.

*London, April 7, 1790.*

SIR,—I arrived in this city on Saturday evening the 28th of March, and called the next morning on the duke of Leeds, minister for foreign affairs. He was not at home. I therefore wrote to him a note, copy whereof is enclosed, as also of his answer received that evening. On Monday the 29th, I waited upon him at Whitehall, and after the usual compliments, presented your letter, telling him that it would explain the nature of my business. Having read it, he said with much warmth and gladness in his appearance “I am very happy Mr. Morris to see this letter, and under the President’s own hand. I assure you it is very much my wish to cultivate a friendly and commercial intercourse between the two countries, *and more* ; and I can answer for the rest of his majesty’s servants, that they are of the same opinion.” “I am happy, my lord, to find that such sentiments prevail, for we are too near neighbours not to be either good friends or dangerous enemies.” “You are perfectly right, sir ; and certainly it is to be desired, as well for our mutual interests, as for the peace and happiness of mankind, that we should be upon *the best footing*.” I assured him of our sincere disposition to be upon good terms ; and then proceeded to mention those points in the treaty of peace which remained to be performed ; and first I observed, that by the constitution of the United States, which he had certainly read, all obstacles to the recovery of British debts are removed, and that

if any doubts could have remained they are now done away by the organization of a federal court, which has cognizance of causes arising under the treaty. He said he was happy to receive this information: that he had been of opinion, and had written so to Mr. Adams, that the articles ought to be performed, in the order in which they stood in the treaty. Not choosing to enter into any discussion of his conduct in relation to Mr. Adams, I told his grace that I had but one rule or principle both for publick and private life, in conformity to which I had always entertained the idea, that it would consist most with the dignity of the United States, first to perform *all their* stipulations, and then to require such performance from others: and that (in effect) if each party were, on mutual covenants to suspend his compliance, expecting that of the other, all treaties would be illusory. He agreed in this sentiment, upon which I added, that the United States had now placed themselves in the situation just mentioned. And here I took occasion to observe, that the southern states, who had been much blamed in this country for obstructing the recovery of British debts, were not liable to all the severity of censure which had been thrown upon them; that their negroes having been taken or seduced away, and the payment for those negroes having been stipulated by treaty, they had formed a reliance on such payment for discharge of debts contracted with British merchants, both previously and subsequently to the war; that the suspension of this resource had occasioned a deficiency of means, so that their conduct had been dictated by an overruling necessity. Returning then to the main business, I observed that as we had now fully performed our part, it was proper to mention that two articles remained to be fulfilled by them, viz. that which related to the posts, and that regarding a compensation for the negroes; unless indeed they had sent out orders respecting the former subsequent to the writing of your letter; and I took the liberty to consider *that* as a very probable circumstance. He now became a little embarrassed, and told me that he could not exactly say how that matter stood. That as to the affair of the negroes, he had long wished to have it brought up, and to have something done, but something or other had always interfered. He then changed the conversation, but I brought it back, and he changed it again. Hence it was apparent that he could go no further than general professions and assurances. I then told him, that there was a little circumstance which had operated very disagreeably upon the feelings of Ame-

rica. Here he interrupted me "I know what you are going to say, our not sending a minister. I wished to send you one; but then I wished to have a man every way equal to the task, a man of abilities, and one agreeable to the people of America; but it was difficult. It is a great way off, and many object on that score." I expressed my persuasion that this country could not want men, well qualified for every office; and he again changed the conversation: therefore, as it was not worth while to discuss the winds and the weather, I observed that he might probably choose to consider the matter a little, and to read again the treaty, and compare it with the American constitution. He said that he should, and wished me to leave your letter, which he would have copied, and would return to me. I did so, telling him that I should be very glad to have a speedy answer, and he promised that I should.

Thus sir, this matter was begun; but nine days have since elapsed, and I have heard nothing further from the duke of Leeds. It is true that Easter holidays have intervened, and that publick business is in general suspended for that period. I shall give them sufficient time to shew whether they are as well disposed as he has declared, and then give him a hint. Before I saw him, I communicated to the French ambassador *in confidence*, that you had directed me to call for a performance of the treaty. He told me at once, that they would not give up the posts. Perhaps he may be right. I thought it best to make such communication, because the thing itself cannot remain a secret; and by mentioning it to him, we are enabled to say with truth, that in every step relating to the treaty of peace, we have acted confidentially in regard to our ally. With perfect respect, &c.

GOUVERNEUR MORRIS.

George Washington, Esq.  
President of the United States.

*Whitehall, April 28, 1790.*

SIR,—I should not have so long delayed returning an answer to the letter you received from general Washington, which you had the goodness to communicate to me last month, had I not heard you were in Holland. I received some time ago a note from you, which I should sooner have acknowledged, but was at first prevented by a multiplicity of engagements, and since by illness.

The two subjects contained in general Washington's letter, are indisputably of the highest importance; and I can safely assure you, that it has ever been the sincere and earnest wish of this country, to fulfil her engagements (contracted by the treaty of peace) with the United States in a manner consistent with the most scrupulous fidelity.

We cannot but lament every circumstance which can have delayed the accomplishment of those engagements (comprised in the treaty) to which those states were in the most solemn manner bound; and should the delay in fulfilling them have rendered their final completion impracticable, we have no scruple in declaring our object is to retard the fulfilling such subsequent parts of the treaty, as depend entirely upon Great Britain, until redress is granted to our subjects upon the specifick points of the treaty itself, or a fair and just compensation obtained for the non-performance of those engagements on the part of the United States.

With respect to a commercial treaty between the two countries, I can only say, that it is the sincere wish of the British government to cultivate a real and bona fide system of friendly intercourse with the United States; and that every measure which can tend, really and reciprocally to produce that object, will be adopted with the utmost satisfaction by Great Britain. I am, sir, &c.

LEEDS.

Gouverneur Morris, Esq.

*London, May 29, 1790.*

SIR,—I do myself the honour to enclose a copy of my letter of the first instant. On the night of the fourth there was a hot press here, which has continued ever since; and the declared object is to compel Spain to atone for an insult offered to Great Britain by capturing two vessels in Nootka Sound.

Permit me to observe incidentally that it would not be amiss for the American captain, who was a witness of the whole transaction, to publish a faithful narrative. The general opinion here is that Spain will submit, and that Spain only is the object of the armament. But I hold a very different faith. If Spain submits, she may as well give up her American dominions; for the position advanced here is, that nations have a right to take possession of any territory unoccupied. Now without noticing the inconsistency between this assertion and those which preceded the war of 1755, when France built fort Duquesne upon ground unoccupied by British subjects, it cannot escape the most cursory obser-

vation, that the British sitting down in the vicinity of the Spanish settlements will establish such a system of contraband traffick, as must ruin the commerce of Cadiz, and the revenue now derived from it by the Spanish monarch. In former letters I have communicated in some measure my ideas upon the second opinion. I shall not therefore recapitulate them, but only in general notice, that the armament against Spain, should Spain shrink from the contest, will undoubtedly be sent to the Baltick with decisive effect. You will observe also, that the ministers count upon the nullity of France, of which I shall say a word presently.

In consequence of the orders for impressing of seamen, a number of Americans were taken, and the applications made for their relief were in some instances ineffectual. On the morning of the 12th Mr. Cutting called to inform me that he was appointed agent to several of the American masters of ships. I gave him my advice as to the best mode of proceeding, and particularly urged him to authenticate all the facts by affidavits, assuring him that if he was unsuccessful, I would endeavour to obtain the assistance of such persons as I might be acquainted with. On the 17th Mr. Payne called to tell me, that he had conversed on the same subject with Mr. Burke, who had asked him if there was any minister, consul, or other agent of the United States, who could properly make application to the government: to which he had replied in the negative; but said that I was here, who had been a member of Congress, and was therefore the fittest person to step forward. In consequence of what passed thereupon between them, he urged me to take the matter up, which I promised to do. On the 18th I wrote to the duke of Leeds requesting an interview. He desired me to come at three o'clock of the next day; but his note was delivered after the hour was passed; and very shortly after it, came another note, giving me an appointment of the 20th.

Upon entering his closet, he apologised for not answering my letters. I told him that I had in my turn an apology to make for troubling him with an affair on which I was not authorized to speak. He said I had misunderstood one part of his letter to me; for that he certainly meant to express a willingness to enter into a treaty of commerce. I replied, that as to my letter I supposed he would answer it at his leisure, and therefore we would wave the discussion; that my present object was to mention the conduct of their press gangs who had taken many American seamen, and had entered American vessels with as little ceremony as those be-

longing to Britain. "I believe my lord this is the only instance in which we are not treated as aliens." He acknowledged that it was wrong, and would speak to lord Chatham on the subject. I told him that many disagreeable circumstances had already happened, and that there was reason to expect many more, in a general impress through the British dominions. That masters of vessels on their return to America would excite much heat, "and *that*, my lord, combined with other circumstances, may perhaps occasion very disagreeable events; for you know that when a wound is but recently healed 'tis easy to rub off the skin." He then repeated his assurances of good will, and expressed an anxious wish to prevent all disagreement, observing at the same time, that there was much difficulty in distinguishing between the seamen of the two countries. I acknowledged the inconveniences to which they might be subjected by the pretence of British seamen to be Americans, and wished therefore that some plan might be adopted, which, founded on good faith, might at the same time prevent the concealment of British sailors, and protect the Americans from insult. As a means of accomplishing that end, I suggested the idea of certificates of citizenship to be given by the admiralty courts of America to our seamen. He seemed much pleased, and willing at once to adopt it; but I desired him to consult first the king's servants in that particular department; and having again reminded him that I spoke without authority, took my leave; but at his request promised to visit him again the next day.

The morning of the 21st I found him sitting with Mr. Pitt, to whom he presented me. The first point we took up was that of the impress. Mr. Pitt expressed his approbation of the plan I had proposed to the duke, but observed that it was liable to abuse, notwithstanding every precaution which the admiralty offices in America could take. I acknowledged that it was, but observed, that even setting aside the great political interests of both countries, it was for the commercial interest of Britain rather to wink at such abuse; for that if they should be involved in a war with the *House of Bourbon*, our commerce with Britain must be in American bottoms, because a war premium of insurance would give a decided preference to the manufactures of other countries in our markets; but that no wages would induce our seamen to come within the British dominions if they were thereby liable to be impressed. Mr. Pitt replied to this, that the degree of risk, and consequently the rate of insurance, must depend upon the *kind of war*. Not taking any direct

notice of this expression, I observed, that notwithstanding the wretched state of the *French government*, there still existed much force in that country, and that the power of commanding human labour must also exist somewhere, so that if the government could not arm their fleets, there would still be many privateers; and that in effect the slenderest naval efforts must involve merchant vessels in considerable danger. Returning then to the consideration of the principal point, we discussed the means of carrying the plan into effect; and for that purpose I recommended, that his majesty's servants should order all their marine officers to admit as evidence of being an American seaman, the certificate to that effect of the admiralty in America, containing in it a proper description of the person, &c. but without excluding however other evidence; and observed that in consequence of the communication that such orders were given, the executive authority in America, without the aid of the legislature, by directions to the several admiralties might carry the plan into effect, so far as relates to those seamen who should apply for certificates. I am induced to believe that this measure if adopted will not only answer the desired end, but be productive of other good consequences in America, which I will not now trouble you with the detail of.

This affair being so far adjusted, we proceeded to new matter, and they both assured me that I had misapprehended the duke's letter in regard to a treaty of commerce. I answered coolly, that it was easy to rectify the mistake; but it appeared idle to form a new treaty, until the parties should be thoroughly satisfied about that already existing. Mr. Pitt then took up the conversation, and said that the delay of compliance on our part had rendered that compliance less effectual, and that cases must certainly exist where great injury had been sustained by the delay. To this I replied, that delay is always a kind of breach, since as long as it lasts, it is the non-performance of stipulations. I proceeded then to a more exact investigation of the question. And first (as I knew them to be pestered with many applications for redress, by those who had, and those who pretended to have suffered) I attempted to shew what I verily believe to be the fact, viz. that the injury was much smaller than was imagined, because among the various classes of American debtors, those only should be considered who had the ability and not the will, to pay at the peace, and were now deprived of the ability. These I supposed to be not numerous; and as to others. I stated interest as the natural compensation for delay

of payment; observing that it was impossible to go into an examination of all the incidental evils. In the second place I desired him to consider that we in turn complained that the British government had not, as they ought, paid for the slaves which were taken away. That we felt for the situation they were in of being obliged either to break faith with slaves whom they had seduced by the offer of freedom, or to violate the stipulations they had made with us upon that subject. That we were willing therefore to waive our literal claims, but had every right to insist on compensation; and that it would not be difficult for the planters to shew, that they had sustained an annual loss from the want of men to cultivate their lands, and thereby produce the means of paying their debts.

Mr. Pitt exclaimed at this, as if it were an exaggerated statement. I at once acknowledged my belief, that in this, as in all similar cases, there might be some exaggeration on both sides; "but sir, what I have said tends to shew that these complaints and inquiries are excellent, if the parties wish to keep asunder; if they wish to come together, all such matters should be kept out of sight, and each side perform now, as well as the actual situation of things will permit." Mr. Pitt then made many professions of an earnest desire to cultivate the best understanding, &c. &c. &c.

On the whole he thought it might be best to consider the subject generally, and see if on general ground some compensation could not be made mutually. I immediately replied, "if I understand you, Mr. Pitt, you wish to make a new treaty instead of complying with the old one." He admitted this to be *in some sort* his idea. I said that even on that ground I did not see what better could be done, than to perform the old one. "As to the compensation for negroes taken away, it is too trifling an object for you to dispute, so that nothing remains but the posts. I suppose therefore, that you wish to retain those posts." "Why perhaps we may." "They are not worth the keeping; for it must cost you a great deal of money, and produce no benefit. The only reason you can have to desire them is to secure the fur trade, and that will centre in this country let who will carry it on in America." I gave him the reasons for this opinion, which I am sure is well founded, but I will not trouble you with them. His answer was well turned. "If you consider these posts as a trivial object there is the less reason for requiring them." "Pardon me, sir, I only state the retaining them *as useless to you*. But this matter is

to be considered in a different point of light. Those who made the peace acted wisely, in separating the possessions of the two countries by so wide a water. It is essential to preserve this boundary if you wish to live in amity with us. Near neighbours are seldom good ones; for the quarrels among borderers frequently bring on wars. It is therefore essential to both parties that you should give them up; but as to us it is of particular importance, because our national honour is interested. You hold them with the avowed intention of forcing us to comply with such conditions as you may impose." "Why sir, as to the considerations of national honour, we can retort the observation, and say our honour is concerned in your delay of performance of the treaty." "No sir, your natural and proper course was to comply fully on your part, and if then we had refused a compliance, you might rightfully have issued letters of marque and reprisal, to such of your subjects as were injured by our refusal. But the conduct you have pursued naturally excites resentment in every American bosom. We do not think it worth while to go to war with you for these posts; *but we know our rights, and will avail ourselves of them when time and circumstances may suit.*" Mr. Pitt asked me if I had powers to treat. I told him I had not; and that we could not appoint any person as minister, they had so much neglected the former appointment. He asked me whether we would appoint a minister if they would. I told him I could almost promise that we should, but was not authorized to give any positive assurance. The question then was how to communicate on this subject. I suggested that since much time might be unnecessarily consumed by reason of the distance and uncertainty of communication, it would perhaps be expedient for them to appoint a minister, and delay his departure until you should have made a similar appointment. Mr. Pitt said they might communicate to you their intention to appoint, &c. I told him that his communication might encounter some little difficulty, because you could not properly hear any thing from the British consuls, those being characters unacknowledged in America. His pride was a little touched at this. "I should suppose, Mr. Morris, that attention might as well be paid to what they say, as that the duke of Leeds and I should hold the present conversation with you." "By no means, sir—I never should have thought of asking a conference with his grace, if I had not possessed a letter from the President of the United States, which you know, my lord, I left with you, and which I dare say you have communicated

to Mr. Pitt." He had. Mr. Pitt said they could in like manner write a letter to one of their consuls. "Yes sir, and the *letter* will be attended to, but not the consul, who is in no respect different from any other British subject; and this is the circumstance which I wished you to attend to." He said in reply to this, that etiquette ought not to be pushed so far as to injure business and to keep the countries asunder. I assured him that the rulers of America had too much understanding to care for etiquette, but prayed him at the same time to recollect, that they (the British) had hitherto kept us at a distance instead of making advances. That you had gone quite as far as they had any reason to expect, in writing the letter just mentioned; but that from what had passed in consequence of it, and which (as he might naturally suppose) I had transmitted, we could not but consider them as wishing to avoid an intercourse. He took up this point, and expressed again his hope that I would remove such an idea, assuring me that they were disposed to cultivate a connection, &c. To this I replied, that any written communication which his grace of Leeds might make should be duly transmitted; but I did not like to recite mere conversation, because it might be misconceived, and disagreeable questions afterwards arise; whereas written things remain and speak for themselves. They agreed to the propriety of this sentiment. I observed further, that our disposition towards a good understanding was evidenced, not only by your letters, but also by the decision of a majority of the House of Representatives against laying extraordinary restrictions on British vessels in our ports. Mr. Pitt said that instead of restrictions we ought to give them particular privileges in return for those which we enjoy here. I assured him that I knew of none except that of being impressed, a privilege which of all others we least wished to partake of. The duke of Leeds observed in the same style of jocularly that we were at least treated in that respect as the most favoured nation, seeing that we were treated like themselves. But Mr. Pitt said seriously, that they had certainly evinced good will towards us, by what they had done respecting our commerce. I replied therefore with like seriousness, that their regulations had been dictated by a view to their own interest, and therefore as we felt no favour, we owned no obligation. The subject being now pretty well exhausted, they promised to consult together and give me the result of their deliberations. This I am yet to receive; but I learn that Mr. Grenville has this day consulted some persons skilled

in the fur trade, and that from his conversation it seemed probable that they would give up the posts. *My information is good.*

I have already said that the ministers here count upon the nullity of France. They do not however expect that she will violate her treaty with Spain, and therefore they are rather I believe in hopes that Spain will submit to such terms as they may impose. How far they may be bound to aid Prussia seems as yet to be doubtful; but for my own part I believe that a war is inevitable; and I act on that ground. If it does not take place, they will I think desire such things of us, in a treaty of commerce, as we shall not be disposed to grant; but if it does happen, then they will give us a good price for our neutrality; and Spain I think will do so too; wherefore this appears to be a favourable moment for treating with that court about the Mississippi.

Before I close this letter, already too long, I must intreat permission to make one or two explanatory observations. It is evident that the conduct of this government towards us, from the time of my first interview with the duke of Leeds, has depended on the contingencies of war or peace with the neighbouring powers; and they have kept things in suspense accordingly. When therefore they came a little forward, it proved to me their apprehension of a rupture. I have some reason to think that they are in greater danger than they are themselves aware of, and I have much cause to suspect that they meditate a blow in Flanders, in which it is not improbable that they will be foiled and disappointed. Believing therefore that I knew their motives, it only remained to square my conduct and conversation accordingly. And here you will consider that the characteristick of this nation is pride; whence it follows, that if they are brought to sacrifice a little of their self importance, they will readily add some other sacrifices. I kept therefore a little aloof, and did not, as I might have done, obtain an assurance that they would appoint a minister if you would. On the contrary, it now stands on such ground that they must write a letter making the first advance, which you of course will be in possession of; and to that effect I warned them against sending a message by one of their consuls. With perfect respect, &c.

GOUVERNEUR MORRIS.

P. S. May 30th. It is utterly impossible for me to copy the letters which I intended to enclose. It is now near one o'clock in the morning, and Mr. Williams sets off at eleven.

To George Washington, Esq.  
President of the United States.

*London, September 10, 1790.*

MY LORD,—At the close of a conversation with your grace and the right honourable Mr. Pitt, on the 21st of May last, I was told that you would confer together, and transmit a reply to the letter which I had the honour of addressing to your grace on the 30th of April. In expectation of that reply I have patiently waited in this city to the present hour, though called by many affairs to the continent; but my departure cannot be much longer delayed, and therefore it becomes necessary to intrude once more on your grace's attention.

I was led to believe, my lord, that a friendly connection might have taken place between this country, and that of which I have the honour to be a citizen. How far it might be useful to Great Britain I presume not to conjecture, being perfectly convinced, from the wisdom and extensive information of his majesty's ministers, that the best rule for private judgment must be derived from their conduct. But, my lord, I candidly own, that such connection appears to be of great consequence to America, and therefore the hope of becoming instrumental to the accomplishment of it was most pleasing; nor am I ashamed to avow my concern at the disappointment.

Your grace will readily recollect the purport of that letter which you did me the honour to write on the 28th of April, and that mine of the 30th entreated a communication of the nature and extent of that redress, which his majesty's ministers expected upon the specifick points of the treaty of peace, and the kind and measure of compensation they would require, in case (as had been supposed) the specifick performance on our part were now impracticable. Months having elapsed in silence, your grace will I hope pardon me for observing, that the pointed avowal of a determination to withhold performance, unless upon certain conditions, the communication of which is withheld, might be construed into unconditional refusal. Your personal integrity and honour, my lord, the acknowledged justice of his majesty, and the pride of British faith, prohibit me from harbouring that idea: but

it may perhaps be entertained by my countrymen; and if it should, it may lead to measures which in their consequences shall eventually induce the two nations to seek, rather the means of reciprocal injury, than of mutual advantage. I humbly hope that this may never happen. The sentiment of America has long been conciliatory, and I should feel inexpressible satisfaction, if your grace would possess me of the means of restoring activity to her friendly dispositions.

With perfect respect, &c.

GOUVERNEUR MORRIS.

To his Grace the Duke of Leeds,

His Majesty's principal Secretary of State for Foreign Affairs.

*Whitehall, September 10, 1790.*

SIR,—I have just received the honour of your letter of this day's date. I well remember the nature of the conversation you allude to, as well as the particular points upon which the two countries mutually complain of a non-observance of treaty. Each party may perhaps have reason of complaint. I can assure you, sir, I sincerely lament it. I am not entering into a ministerial discussion upon the subject of our not being already farther advanced in (what we are both interested in) a real bona fide intercourse of friendship; but am only acknowledging, confidentially, my own private opinion, and what it has not been hitherto in my power to remedy.

I shall, I trust, be enabled very soon to address myself upon a new subject to general Washington, and in the mean time shall be very happy to see you, sir, before your departure for America. I have the honour, &c.

LEEDS.

Gouverneur Morris, Esq.

*London, Sept. 13, 1790.*

SIR,—I had the honour to address you on the 16th of August, and stated as nearly as I could the situation of Russia and Sweden. This situation has produced a very natural effect. Sweden being unsupported by her allies, and Russia having nothing to gain by farther fighting but a part of the Finland deserts not worth fighting for, they have struck a bargain of peace immediately without the interference of any one else. This leaves the Russian and Turk to pursue their game single handed. The ministers of Britain are by no means well pleased that they were not consulted by the

Swede; and I think it probable that if Russia makes peace with the Turks, it will be without the mediation of Prussia or England; for as things are situated, it seems impossible for those powers to do the empress any mischief before next spring.

The national assembly of France have also adopted, as a national compact, the old family compact with Spain; and they are arming as fast as their disjointed condition will admit. At the same time the general opinion of this country seemed to be that the ministry would obtain very honourable terms from Spain; whereas the ministers themselves were (as I believe) much embarrassed as to the line of conduct which they should pursue. To support the high tone in which they first opened, would probably bring on a bloody war for an empty sound. To recede would expose them to severe animadversion at home, and a loss of reputation abroad. These circumstances appearing to me favourable, I wrote the letter of which No. 1 is a copy. It is calculated, first, to operate upon an administration which I believed to be divided in regard to America, and a sovereign who hates the very name, while he prides himself upon his piety and moral fame; secondly, it was intended as a ground of future justification for any measures which Congress might think proper to adopt; and thirdly, it had, I own, a special view to the nature of this government and people; for if they do eventually get engaged in war, and feel a little from our coldness, and if in addition thereto, the commercial men find any ground of complaint, it will make them so eager to rectify their mistake, as to give us considerable advantages. In answer to this letter, I received that of which No. 2 is a copy. This was written in his own hand writing, and as it is said therein to be not ministerial but confidential, we must so consider it. Consequently it is not a publick paper. The inference to be drawn from it is, that the council could not agree, as yet, upon the answer to be given. Hence I concluded, that those who, pursuing the true interests of Great Britain, wish to be on the best terms with America, are outnumbered by those whose sour prejudices and hot resentments render them averse to every intercourse, except that which may immediately subserve a selfish policy. These then do not yet know America. Perhaps America does not yet know herself. They believe that British credit is essential to our commerce. Useful it certainly is at present; but let our *publick* credit be well established and supported, and in a very few years our commercial resources will astonish

the world. We are yet but in the seeding time of national prosperity, and it will be well not to mortgage the crop before it is gathered. Excuse, I pray sir, this digression. The matter of it is not wholly inapplicable.

A copy of my answer to the duke, and of his reply, are in the papers No. 3 and 4. In consequence of the latter, I waited upon him the 15th instant, and I saw at once by his countenance that he felt himself obliged to act an awkward part. I waited therefore for him to begin the conversation, which he did by saying he understood I was going to America. I told him he had mistaken my letter, for that by the *continent*, I meant the continent of Europe. After some pause, he said that he hoped soon to fix upon a minister to America; that they had a person in contemplation, who was not however absolutely agreed on. I did not ask who it was. After a further pause he said that *in order to save time*, and obviate difficulties, the intention was to send over a gentleman with a common letter of recommendation, but having letters of credence in his pocket. I expressed my perfect approbation of this expedient. He told me that he was earnestly desirous of a real bona fide connection, not merely by the words of a treaty, but in reality. I met these by similar professions, but took care to confine them to a commercial intercourse, for mutual benefit, on liberal terms. He told me that as to the two points of the treaty, there were still difficulties. He wished they could be got out of the way. He then hesitated a little, and dropped the conversation. Having waited some time for him to resume it, and being convinced by his silence, that it was intended to hold a conference and say nothing, I determined to try for information in a different way. I began therefore by expressing with an air of serious concern my conviction that their detention of the western posts would form an insurmountable barrier against a treaty with us. Knowing so well as he did the nature of popular governments, he would not be surprised that some in America should oppose a treaty with Britain from serious doubts as to the policy of the measure, and others from private reasons; and he must see that holding those posts, would form an argument for one, and a pretext for the other. Finding that he felt this, I added that their conduct in this respect, gave serious alarm to reasonable well meaning men. Some believed their design was to deprive us of our share in the fur trade, which they considered as a serious injury; but others were convinced, that holding those posts was attended with great and useless ex-

pense to Britain, which the benefits of the fur trade by no means compensated; and even that she would derive those benefits, whether that trade were carried on through the medium of Canada or of the United States: Hence they inferred some other, and consequently some hostile views; so that every murder committed by the Indians was attributed to British intrigues; and although some men of liberal minds might judge differently, their arguments could have little weight with the many who felt themselves aggrieved. He owned that there was force in these reflections. I told him farther, that I did not presume to judge of the great circle of European politicks, but according to my limited comprehension, I was led to suppose that they could not act with the same decisive energy towards their neighbours while they doubted of our conduct. He said I was perfectly right, and he said so in a manner which showed, that this had been urged and felt during the late negotiations. I proceeded therefore a little farther (premising that this conversation was merely from one gentleman to another) and prayed him to consider, that in a war between Britain and the house of Bourbon (a thing which must happen at some time or other) we can give the West India islands to whom we please, without engaging in the war ourselves; and our conduct must be governed by our interest. He acknowledged that this was naturally to be expected; and it seemed from his manner, that the same thing had been represented before, but not in such strong colours. I observed that those preferences which we had a right to give in our own ports, and those restrictions which we had a right to impose, would have a most extensive operation. Assured him of my sincere belief that their exclusive system, as far as it related to the commerce of their islands, had a tendency to injure that navigation which it was their object to increase; because if we met them on equal ground of restriction, they would lose more in one way than they gained in another. That they had many large ships employed in carrying the single article of tobacco; and if we should pass a navigation act to meet theirs, they could not bring us a yard of cloth which contained Spanish wool, and so of other things. I thought I could perceive that considerations like these had already given them some alarm; I therefore said that I supposed his people had transmitted information of the attempts made in Congress to adopt such regulations. He said they had. I observed that not having yet received the laws passed by Congress, I could not say exactly what had been done. That

I hoped things were yet open for treaty. *That doubtless there were many persons in this country, who, to gratify the resentment occasioned by losses or disappointments in the American war, would be glad to urge on a state of commercial hostility, but this would prove perhaps a losing game to both.* He really thought it would. Having gone as far in that line as was useful, I took a short turn in my subject, and said I had waited with great patience during the negotiations they were carrying on, because I supposed *they would naturally square their conduct towards us by their position in respect to other nations.* I made this observation in a careless manner as a thing of course, but immediately fixing my eye upon him, he showed that it was exactly the circumstance they had wished to conceal. I added that finding the northern courts were now at peace, *and supposing they had come to their final decisions with respect to the house of Bourbon, I thought it probable that they were prepared to speak definitively to us also.* Here I waited for his answer, which indeed I did not expect to receive. He was pretty sufficiently embarrassed, and from his look and manner, I collected quite as much as he was willing to communicate. After some little sayings of no consequence, he asked me what the United States would think of the undefined claim of Spain to America. Having no objection to take that information from his questions, which could not be drawn forth in his answers, I told him that it would make no impression on our minds. That the Spaniards being in fact apprehensive of danger from us, were disposed to make sacrifices for our friendship. That the navigation of the Mississippi, hitherto the bone of contention, was I believed given up by them already, or would soon be so; and as for their claims, they never could affect us, and therefore we did not care any thing about them. That their reason for withholding that navigation hitherto was the fear of contraband trade; and for the same reason they must, in my opinion, sacrifice the last man and last shilling upon the question about Nootka Sound. He said he had always thought the danger of contraband ought to be considered in dealing on this subject, for that nations like individuals ought to treat with candour and honesty. We had a good deal of conversation on that, and other topics in which America was not directly concerned, and then I told him that if they came to any determination in regard to us speedily, I should wish to be apprized of it. He assured me that I should, and offered to make his communications to you through me, and for that purpose to ad-

dress his letters to me in Paris; but for reasons communicated in a former letter, I thought it best to decline this offer, and therefore observed that his own packets would give him a speedier and more certain means of conveyance. I then took my leave.

I have troubled you sir, with the leading features of this conversation, that you might the better judge of the conclusions I draw from it. I think the cabinet is divided on the question of war or peace. If France appeared strong enough to excuse a *retrograde manoeuvre*, I believe they would discover all at once, that Spain has better reasons to urge than they had been before apprized of; and therefore *on principles of justice*, and having received the strongest assurances of brotherly love from the catholic king, the defender of the faith, would disarm. His ministers will not treat with us at present, unless they could see their way to offensive and defensive alliance, which we shall be in no hurry to contract. Should war break out, the anti-American party will I believe agree to any terms; for it is more the taste of the medicine which they nauseate, than the size of the dose. Mr. Pitt I believe wishes a continuance of peace. Observe that he is rather the queen's man than the king's, and that since his majesty's illness *she* has been of great consequence. This depends in part on a medical reason. To prevent the relapse of persons who have been mad, they must be kept in constant awe of somebody, and it is said that the physician of the king gave the matter in charge to his royal consort, who performs that, like every other part of her conjugal duty, with singular zeal and perseverance. He and all those who are in possession of his entire confidence, wish (it is said) for war, which gives you know great patronage, and by the increase of taxes and offices increases the influence and power of the crown. The king *and his friends* are also violently indisposed to America.

Things being so situated, and having business on the continent, I shall leave this city in a few days, and shall perhaps write a farther letter of lamentations to the duke of Leeds before I go. I intend to write such a letter to you on the whole business as may, in case of need, be laid before the legislature, and consequently before the publick.

I long since expressed my opinion to you, sir, that the appearances of prosperity here were fallacious. In nothing are they more so than in the affairs of the India company, which are deplorably bad; and they are now engaged in a war with Tippoo Saib, which, terminate how it may, must make them worse.

It is time to close this lengthy epistle. Let me therefore entreat you to receive the assurances, &c.

GOUVERNEUR MORRIS.

To George Washington, Esq.  
President of the United States of America.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO SPAIN AND PORTUGAL. FEB. 18, 1791.

THE aspect of affairs in Europe during the last summer, and especially between Spain and England, gave reason to expect a favourable occasion for pressing to accommodation the unsettled matters between them and us. Mr. Carmichael, our charge des affaires at Madrid, having been long absent from his country, great changes having taken place in our circumstances and sentiments during that interval, it was thought expedient to send some person in a private character, fully acquainted with the present state of things here, to be the bearer of written and confidential instructions to him, and at the same time to possess him in full and frequent conversations, of all those details of facts and topicks of argument which could not be conveyed in writing, but which would be necessary to enable him to meet the reasonings of that court with advantage. Col. David Humphreys was therefore sent for these purposes.

An additional motive for this confidential mission arose in the same quarter. The court of Lisbon had, on several occasions, made the most amicable advances for cultivating friendship and intercourse with the United States. The exchange of a diplomatic character had been informally, but repeatedly suggested on their part. It was our interest to meet this nation in its friendly dispositions, and to concur in the exchange proposed. But my wish was at the same time, that the character to be exchanged should be of the lowest and most economical grade. To this it was known that certain rules of long standing at that court would produce obstacles. Col. Humphreys was charged with despatches to the prime minister of Portugal and with instructions to endeavour to arrange this to our views. It happened, however, that previous to his arrival at Lisbon, the queen had appoint-

ed a minister *resident* to the United States. This embarrassment seems to have rendered the difficulty completely insurmountable. The minister of that court in his conferences with col. Humphreys professing every wish to accommodate, yet expresses his regrets that circumstances do not permit them to concur in the grade of charge *des affaires*: a grade of little privilege or respectability by the rules of their court, and held in so low estimation with them, that no proper character would accept it to go abroad. In a letter to the secretary of state he expresses the same sentiments, and announces the appointment on their part of a minister *resident* to the United States, and the pleasure with which the queen will receive one from us at her court. A copy of his letter, and also of col. Humphreys' giving the details of this transaction, will be delivered to you.

On consideration of all circumstances, I have determined to accede to the desire of the court of Lisbon, in the article of grade. I am aware that the consequences will not end here, and that this is not the only instance in which a like change may be pressed. But should it be necessary to yield elsewhere also, I shall think it a less evil than to disgust a government so friendly and so interesting to us, as that of Portugal. I do not mean that the change of grade shall render the mission more expensive.

I have therefore nominated David Humphreys minister resident from the United States to her most faithful majesty, the queen of Portugal.      GEORGE WASHINGTON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
ALGIERS AND MOROCCO. FEB. 22, 1791.

I WILL proceed to take measures for the ransom of our citizens in captivity at Algiers, in conformity with your resolution of advice of the first instant, so soon as the moneys necessary shall be appropriated by the legislature and shall be in readiness.

The recognition of our treaty with the new emperor of Morocco requires also previous appropriation and provision. The importance of this last to the liberty and property of our citizens induces me to urge it on your earliest attention.

GEORGE WASHINGTON.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO SPAIN, AND THE NAVIGATION OF THE MISSIS-  
SIPPI. JANUARY 11, 1792.

I LAY before you the following report, which has been made to me by the Secretary of State :

THE Secretary of State, reports to the President of the United States, that one of the commissioners of Spain, in the name of both, has lately communicated to him verbally, by order of his court, that his catholick majesty, apprized of our solicitude to have some arrangements made respecting our free navigation of the river Mississippi, and the use of a port thereon, is ready to enter into treaty thereon at Madrid.

The Secretary of State is of opinion that this overture should be attended to without delay, and that the proposal of treating at Madrid, though not what might have been desired, should yet be accepted ; and a commission plenipoten-  
tiary made out for the purpose.

That Mr. Carmichael, the present charge des affaires of the United States at Madrid, from the local acquaintance which he must have acquired with persons and circumstances, would be an useful and proper member of the commission ; but that it would be useful also to join with him some person more particularly acquainted with the circumstances of the navigation to be treated of.

That the fund appropriated by the act providing the means of intercourse between the United States and foreign nations will insufficiently furnish the ordinary and regular demands on it, and is consequently inadequate to the mission of an additional commissioner express from hence.

That therefore it will be advisable on this account, as well as for the sake of despatch, to constitute some one of the ministers of the United States in Europe, jointly with Mr. Carmichael, commissioners plenipoten-  
tiary for the special purpose of negotiating and concluding, with any person or persons duly authorized by his catholick majesty, a convention or treaty for the free navigation of the river Mississippi by the citizens of the United States, under such accommodations with respect to a port and other circumstances, as may render the said navigation practicable, useful, and free from dispute ; saving to the President and Senate, their respective rights as to the ratification of the same ; and that the

said negotiation be at Madrid, or such other place in Spain as shall be desired by his catholic majesty.

December 22, 1791.

TH: JEFFERSON.

Gentlemen of the Senate,

In consequence of the communication from the court of Spain, as stated in the preceding report, I nominate William Carmichael, present charge des affaires of the United States at Madrid, and William Short, present charge des affaires of the United States at Paris, to be commissioners plenipotentiary for negotiating and concluding, with any person or persons who shall be duly authorized by his catholic majesty, a convention or treaty concerning the navigation of the river Mississippi by the citizens of the United States; saving to the President and Senate their respective rights as to the ratification of the same.

GEORGE WASHINGTON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO NEGOTIATIONS AT MADRID. MARCH 7, 1792.

I SUBMIT to your consideration the report of the Secretary of State which accompanies this, stating the reasons for extending the negotiation proposed at Madrid to the subject of commerce, and explaining under the form of instructions to the commissioners lately appointed to that court the principles on which commercial arrangements with Spain might, if desired on her part, be acceded to on ours; and I have to request your decision, whether you will advise and consent to the extension of the powers of the commissioners as proposed, and to the ratification of a treaty which shall conform to those instructions, should they enter into such a one with that court.

GEORGE WASHINGTON.

THE Secretary of State having understood from communications with the commissioners of his catholic majesty, subsequent to that which he reported to the President on the 22d of December last, that though they considered the navigation of the Mississippi as the principal object of negotia-

tion between the two countries, yet it was expected by their court that the conferences would extend to all the matters which were under negotiation on the former occasion with Mr. Gardoqui, and particularly to some arrangements of commerce—is of opinion, that to renew the conferences on this subject also, since they desire it, will be but friendly and respectful, and can lead to nothing without our own consent; and that to refuse it might obstruct the settlement of the questions of navigation and boundary; and therefore reports to the President of the United States, the following observations and instructions to the commissioners of the United States appointed to negotiate with the court of Spain a treaty or convention relative to the navigation of the Mississippi; which observations and instructions he is of opinion should be laid before the Senate of the United States, and their decision be desired, whether they will advise and consent that a treaty be entered into by the commissioners of the United States with Spain conformable thereto.

After stating to our commissioners the foundation of our rights to navigate the Mississippi, and to hold our southern boundary at the 31st degree of latitude, and that each of these is to be a *sine qua non*, it is proposed to add as follows:

On the former conferences on the navigation of the Mississippi, Spain chose to blend with it the subject of commerce; and accordingly specifick propositions thereon passed between the negotiators. Her object then was to obtain our renunciation of the navigation, and to hold out commercial arrangements perhaps as a lure to us. Perhaps however she might then and may now really set a value on commercial arrangements with us, and may receive them as a consideration for accommodating us in the navigation, or may wish for them to have the appearance of receiving a consideration. Commercial arrangements, if acceptable in themselves, will not be the less so, if coupled with those relating to navigation and boundary. We have only to take care that they be acceptable in themselves.

There are two principles which may be proposed as the basis of a commercial treaty, 1st, that of exchanging the privileges of native citizens, or 2d, those of the most favoured nation.

1st. With the nations holding important possessions in America, we are ready to exchange the rights of native citizens, provided they be extended through the whole possessions of both parties; but the propositions of Spain made on the former occasion (a copy of which accompanies this) were,

that we should give their merchants, vessels, and productions, the privileges of native merchants, vessels and productions, through the whole of our possessions; and they give the same to ours only in Spain and the Canaries. This is inadmissible, because unequal: and as we believe that Spain is not ripe for an equal exchange on this basis, we avoid proposing it.

2d. Though treaties which merely exchange the rights of the most favoured nations are not without all inconvenience, yet they have their conveniences also. It is an important one that they leave each party free to make what internal regulations they please, and to give what preferences they find expedient to native merchants, vessels and productions. And as we already have treaties on this basis with France, Holland, Sweden, and Prussia, the two former of which are perpetual, it will be but small additional embarrassment to extend it to Spain. On the contrary we are sensible it is right to place that nation on the most favoured footing, whether we have a treaty with them or not; and it can do us no harm to secure by treaty a reciprocation of the right.

Of the four treaties before mentioned, either the French or the Prussian might be taken as a model; but it would be useless to propose the Prussian, because we have already supposed that Spain would never consent to those articles which give to each party access to all the dominions of the other; and without this equivalent, we would not agree to tie our own hands so materially in war as would be done by the 23d article, which renounces the right of fitting out privateers or of capturing merchant vessels. The French treaty therefore is proposed as the model. In this however the following changes are to be made.

We should be admitted to all the dominions of Spain to which any other foreign nation is or may be admitted.

Article 5, being an exemption from a particular duty in France, will of course be omitted as inapplicable to Spain.

Article 2, to be omitted as unnecessary with Morocco, and inefficacious and little honourable with any of the Barbary powers, but it may furnish occasion to sound Spain on the project of a convention of the powers at war with the Barbary states, to keep up by rotation a constant cruise of a given force on their coasts, till they shall be compelled to renounce for ever, and against all nations, their predatory practices. Perhaps the infidelities of the Algerines to their treaty of peace with Spain, though the latter does not choose to break openly, may induce her to subsidize us to cruise against them with a given force.

Article 9 and 10, concerning fisheries, to be omitted as inapplicable.

Article 11. The first paragraph of this article respecting the Droit d'Aubaine to be omitted, that law being supposed peculiar to France.

Article 17, giving asylum in the ports of either to the armed vessels of the other, with the prizes taken from the enemies of that other, must be qualified as it is in the 19th article of the Prussian treaty, as the stipulation in the latter part of the article "that no shelter or refuge shall be given in the ports of the one to such as shall have made prize on the subjects of the other of the parties," would forbid us, in case of a war between France and Spain, to give shelter in our ports to prizes made by the latter on the former, while the first part of the article would oblige us to shelter those made by the former on the latter; a very dangerous covenant, and which ought never to be repeated in any other instance.

Article 29. Consuls should be received at all the ports at which the vessels of either party may be received.

Article 30, concerning free ports in Europe and America. Free ports in the Spanish possessions in America, and particularly at the Havanna, are more to be desired than expected. It can therefore only be recommended to the best endeavours of the commissioners to obtain them. It will be something to obtain for our vessels, flour, &c. admission to those ports during their pleasure. In like manner if they could be prevailed on to re-establish our right of cutting logwood in the bay of Campeachy, on the footing on which it stood before the treaty of 1763, it would be desirable, and not endanger to us any contest with the English, who by the revolution treaty are restrained to the south eastern parts of Yucatan.

Article 31. The *act* of ratification on our part may require a twelve month from the date of the treaty, as the Senate meets regularly but once a year; and to return it to Madrid for *exchange* may require four months more.

The treaty must not exceed            years duration, except the clauses relating to boundary and the navigation of the Mississippi, which must be perpetual and final. Indeed these two subjects had better be in a separate instrument.

There might have been mentioned a third species of arrangement, that of making special agreements on every special subject of commerce, and of settling a tariff of duty to be paid, on each side, on every particular article; but this

would require in our commissioners a very minute knowledge of our commerce, as it is impossible to foresee every proposition of this kind which might be brought into discussion, and to prepare them for it by information and instruction from hence. Our commerce too is as yet rather in a course of experiment, and the channels in which it will ultimately flow are not sufficiently known to enable us to provide for it by special agreement; nor have the exigencies of our new government as yet so far developed themselves, as that we can know to what degree we may or must have recourse to commerce, for the purposes of revenue. No common consideration therefore ought to induce us as yet to arrangements of this kind. Perhaps nothing should do it, with any nation, short of the privileges of natives in all their possessions foreign and domestick.

It were to be wished indeed that some positively favourable stipulations respecting our grain, flour and fish could be obtained even on our giving reciprocal advantages to some of the commodities of Spain, say her wines and brandies; but

1st. If we quit the ground of the most *favoured nation* as to certain articles for our convenience, Spain may insist on doing the same for other articles for her convenience, and thus our commissioners will get themselves on the ground of a *treaty of detail* for which they will not be prepared.

2d. If we grant favour to the wines and brandies of Spain, then Portugal and France will demand the same; and in order to create an equivalent Portugal may lay a duty on our fish and grain, and France a prohibition on our whale oils, the removal of which will be proposed as an equivalent.

Thus much however as to grain and flour may be attempted. There has not long since been a considerable duty laid on them in Spain. This was while a treaty on the subject of commerce was pending between us and Spain, as that court considers the matter. It is not generally thought right to change the state of things pending a treaty concerning them. On this consideration, and on the motive of cultivating our friendship, perhaps the commissioners may induce them to restore this commodity to the footing on which it was on opening the conferences with Mr. Gardoqui on the 26th day of July, 1785. If Spain says "do the same by your tonnage on our vessels," the answer may be "that our foreign tonnage affects Spain very little, and other nations very much, whereas the duty on flour in Spain affects us very much, and other nations very little; consequently there

would be no equality in reciprocal relinquishment, as there had been none in the reciprocal innovation; and Spain by insisting on this would in fact only be aiding the interests of her rival nations, to whom we should be forced to extend the same indulgence." At the time of opening the conferences too, we had as yet not erected any system; our government itself being not yet erected. Innovation then was unavoidable on our part, if it be innovation to establish a system. We did it on fair and general ground, on ground favourable to Spain; but they had a system, and therefore innovation was avoidable on their part.

March 7, 1792.

TH: JEFFERSON.

*Articles proposed by Don Diego Gardoqui, to be inserted in the Treaty with the United States.*

1st. THAT all commercial regulations affecting each other shall be founded in perfect reciprocity. Spanish merchants shall enjoy all the commercial privileges of native merchants in the United States; and American merchants shall enjoy all the commercial privileges of native merchants in the kingdom of Spain, and in the Canaries and other islands belonging and adjacent thereto. The same privileges shall extend to their respective vessels, and merchandise consisting of the manufactures and productions of their respective countries.

2d. Each party may establish consuls in the countries of the other, (excepting such provinces in Spain, into which none have heretofore been admitted, viz. Bilboa and Guipusca) with such powers and privileges as shall be ascertained by a particular convention.

3d. That the bona fide manufactures and productions of the United States (tobacco only excepted, which shall continue under its present regulations) may be imported in American or Spanish vessels into any parts of his majesty's European dominions and islands aforesaid, in like manner as if they were the productions of Spain. And on the other hand, that the bona fide manufactures and productions of his majesty's dominions, may be imported into the United States in Spanish or American vessels, in like manner as if they were the manufactures and productions of the said States. And further, that all such duties and imposts, as may mutually be thought necessary to lay on them by either party, shall be ascertained and regulated on principles of exact reciprocity, by a tariff to be formed by a convention for that

purpose, to be negotiated and made within *one* year after the exchange of the ratification of this treaty; and in the mean time, that no other duties or imposts shall be exacted from each others' merchants and ships than such as may be payable by natives in like cases.

4th. That inasmuch as the United States, from not having mines of gold and silver, may often want supplies of specie for a circulating medium, his catholic majesty, as a proof of his good will, agrees to order the masts and timber which may from time to time be wanted for his royal navy, to be purchased and paid for in specie in the United States. Provided, the said masts and timber shall be of equal quality, and when brought to Spain, shall not cost more than the like may there be had for, from other countries.

5th. It is agreed that the articles commonly inserted in other treaties, of commerce for mutual and reciprocal convenience, shall be inserted in this; and that this treaty and every article and stipulation therein shall continue in full force for        years, to be computed from the day of the date hereof.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO ALGIERS. MAY 8, 1792.

If the President of the United States should conclude a convention or treaty with the government of Algiers for the ransom of the thirteen Americans in captivity there, for a sum not exceeding forty thousand dollars, all expenses included, will the Senate approve the same? Or is there any and what greater or lesser sum which they would fix on as the limit beyond which they would not approve the ransom?

If the President of the United States should conclude a treaty with the government of Algiers for the establishment of peace with them, at an expense not exceeding twenty-five thousand dollars paid at the signature, and a like sum to be paid annually afterwards during the continuance of the treaty, would the Senate approve the same? Or are there any greater or lesser sums which they would fix on as the limits beyond which they would not approve of such treaty?

GEO. WASHINGTON.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO SPANISH INTERFERENCE WITH INDIANS. NOV.  
7, 1792.

I LAY before you copies of certain papers relative to the Spanish interference in the execution of the treaty entered into, in the year 1790, between the United States and the Creek nation of Indians, together with a letter from the Secretary of State to the President of the United States on the same subject.

GEO. WASHINGTON.

*Philadelphia, November 2, 1792.*

SIR,—The letter of October 29, from Messieurs Viar and Jaudenes, not expressing the principle on which their government interests itself between the United States and the Creeks, I thought it of importance to have it ascertained. I therefore called on those gentlemen, and entered into explanations with them. They assured me, in our conversation, that supposing all question of boundary to be out of the case, they did not imagine their government would think themselves authorized to take under their protection any nation of Indians living within limits confessed to be ours; and they presumed that any interference of theirs, with respect to the Creeks, could only arise out of the question of disputed territory, now existing between us: that on this account, some part of our treaty with the Creeks had given dissatisfaction. They said, however, that they were speaking from their own sentiments only, having no instructions which would authorize them to declare those of their court; but that they expected an answer to their letters covering mine of July 9, (erroneously cited by them as of the 11th,) from which they would probably know the sentiments of their court. They accorded entirely in the opinion that it would be better that the two nations should mutually endeavour to preserve each the peace of the other, as well as their own, with the neighbouring tribes of Indians.

I shall avail myself of the opportunity, by a vessel which is to sail in a few days, of sending proper information and instructions to our commissioners on the subject of the late, as well as of future, interferences of the Spanish officers to

our prejudice with the Indians, and for the establishment of common rules of conduct for the two nations. I have the honour, &c.

TH: JEFFERSON.

The President of the U. States.

TRANSLATION.

SIR,—Though the short time which has past since we had the honour of informing his majesty of the contents of your letter of the 11th of July, of the present year, does not admit us to have received any acknowledgment whereby we might convince you again of the just conduct of our court, and the good disposition which subsists to preserve friendship and the correspondence with the United States, nevertheless, as we have received advices from the governor of Louisiana, which on one part confirm the suspicions which we insinuated to you in our answer to the said letter, “That doubtless the commissioners of the United States insisted on fixing the limits where it is known clearly to be prejudicial to Spain, and opposed to the interests of the Creek Indians,” and on the other part manifest the efforts which the said governor has used to restrain the Indians from committing hostilities against the United States, as they had determined. We have now the satisfaction to enclose to you an extract of the advices of the said governor concerning this object, as a new confirmation of the assurances of the good disposition and friendship which we have several times had the honour to give to the United States.

We omit commenting on the insinuations from the governor of Louisiana, because we are persuaded that your own good understanding will easily penetrate to the bottom of them, and that they will have much weight in your reflection.

We are induced equally to make the present communication by the consideration that we observe from the publick papers, and some conversations, that the opinion prevails that Spain encourages the Creeks at this moment to commit hostilities against the United States, and that those who explain themselves in this sense, do not take time to examine into the true causes, and from whence they derive their root; nor do they appear to distinguish between the acts of individuals and those of nations. Moreover, it appears to be our duty to guard our government from all charge and censure for the want of an amicable pre-admonition, whatever disagreeable consequences may probably result, if the United States do not desist from fixing the limits where they pro-

pose, or suspend all demarcation until the point is determined between our court and the United States, by means of the negotiation on foot; using at the same time the most efficacious means to prevent the exasperation of the minds of the Indians with threats, and all usurpation of their lands.

You will be pleased to inform the President of the United States of what we have here expressed; and we flatter ourselves that the measures which the government of the United States take will be such as may contribute to preserve the good harmony and friendship which has so happily subsisted hitherto, and which otherwise would be much endangered.

We have the honour, &c.

Philadelphia, October 29, 1792.

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#### TRANSLATION.

*Extract of a Letter from the Governour of Louisiana to the Charge des Affaires of his Catholick Majesty near the United States, written at New Orleans. Sept. 24, 1792.*

“THE favourable situation in which (as you inform me) the matters are which are in treaty between our court and the United States of America, has engaged me to restrain the hostilities which the Creek nation had resolved to commence against the state of Georgia to recover the lands which it has usurped from them since the treaty of limits agreed to by McGillivray, in the year 1790, but null in effect, as having been rejected by the nation from the time it was informed of its contents, as not having been ratified and confirmed by the chiefs which compose their council; and finally for as much as that the chiefs having already contracted in the year 1784 with Spain, they could not conclude with the United States a new treaty of limits without their participation; nor could they stipulate in the said treaty, without an infraction of the friendship which subsists between them and Spain, that the Creek nation acknowledges itself under the protection of the United States of America, and not under the protection of any other sovereign whatever.

“I have engaged the nation to wait in peace the result of the negotiations which are under treaty in Madrid; and I hope that the United States will take the same measure, and will suspend running the line of demarcation in that part, until the conclusion of the negotiation before mentioned; since on the contrary, and in case that the Americans realize the menaces which they have thrown out against the said

Indians, to destroy them in the autumn, it will indispensably kindle a very bloody war." Extract.

VIAR,  
JAUDENES.

*Philadelphia, Nov. 1, 1792.*

GENTLEMEN,—I have now to acknowledge the receipt of your favour of October the 29th, which I have duly laid before the President of the United States; and in answer thereto, I cannot but observe, that some parts of its contents were truly unexpected. On what foundation it can be supposed that we have menaced the Creek nation with destruction during the present autumn, or at any other time, is entirely inconceivable. Our endeavours, on the contrary, to keep them at peace have been earnest, persevering, and notorious; and no expense has been spared which might attain that object. With the same views to peace, we have suspended, now more than a twelve-month, the marking a boundary between them and us, which had been fairly, freely, and solemnly established with the chiefs whom they had deputed to treat with us on that subject; we have suspended it, I say, on the constant hope, that taking time to consider it in the councils of their nation, and recognising the justice and reciprocity of its conditions, they would at length, freely concur in carrying it into execution. We agree with you, that the interests which either of us have in the proceedings of the other, with this nation of Indians, is a proper subject of discussion at the negotiation to be opened at Madrid, and shall accordingly give the same in charge to our commissioners there. In the mean time we shall continue sincerely to cultivate the peace and prosperity of all the parties, being constant in the opinion that this conduct, reciprocally observed, will most increase the happiness of all.

I have the honour to be, &c. TH: JEFFERSON.  
Messrs. Viar and Jaudenes.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO TRANSACTIONS WITH SPAIN. DECEMBER 16,  
1793.

THE situation of affairs in Europe, in the course of the year 1790, having rendered it possible that a moment might arrive favourable for the arrangement of our unsettled matters with Spain, it was thought proper to prepare a representative at that court to avail us of it. A confidential person was therefore despatched to be the bearer of instructions to him, and to supply, by verbal communications, any additional information of which he might find himself in need. The government of France was at the same time applied to for its aid and influence in this negotiation. Events, however, took a turn which did not present the occasion hoped for.

About the close of the ensuing year I was informed, through the representatives of Spain here, that their government would be willing to renew at Madrid the former conferences on these subjects. Though the transfer of scene was not what would have been desired, yet I did not think it important enough to reject the proposition; and therefore, with the advice and consent of the Senate, I appointed commissioners plenipotentiary for negotiating and concluding a treaty with that country on the several subjects of boundary, navigation and commerce, and gave them the instructions now communicated. Before these negotiations, however, could be got into train, the new troubles which had arisen in Europe had produced new combinations among the powers there, the effects of which are but too visible in the proceedings now laid before you.

In the mean time, some other points of discussion had arisen with that country, to wit, the restitution of property escaping into the territories of each other, the mutual exchange of fugitives from justice, and above all the mutual interferences with the Indians lying between us. I had the best reason to believe that the hostilities threatened and exercised by the southern Indians on our border were excited by the agents of that government. Representations were thereon directed to be made by our commissioners to the Spanish government, and a proposal to cultivate with good faith the peace of each other with those people. In the mean time, corresponding suspicions were entertained, or pretend-

ed to be entertained, on their part, of like hostile excitements by our agents to disturb their peace with the same nations. These were brought forward by the representatives of Spain here in a style which could not fail to produce attention. A claim of patronage and protection of those Indians was asserted; a mediation between them and us by that sovereign assumed; their boundaries with us made a subject of interference; and at length, at the very moment when these savages were committing daily inroads upon our frontier, we were informed by them that "the continuation of the peace, good harmony and perfect friendship of the two nations was very problematical for the future, unless the United States should take more convenient measures and of greater energy than those adopted for a long time past."

If their previous correspondence had worn the appearance of a desire to urge on a disagreement, this last declaration left no room to evade it, since it could not be conceived we would submit to the scalping knife and tomahawk of the savage without any resistance. I thought it time, therefore, to know if these were the views of their sovereign; and despatched a special messenger with instructions to our commissioners, which are among the papers now communicated. Their last letter gives us reason to expect very shortly to know the result. I must add, that the Spanish representatives here, perceiving that their last communication had made considerable impression, endeavoured to abate this by some subsequent professions, which, being also among the communications to the legislature, they will be able to form their own conclusions.

GEORGE WASHINGTON.

## DOCUMENTS.

*New York, August 2, 1790.*

DEAR SIR,—This letter will be delivered you by colonel Humphreys, whose character is so well known to you, as to need no recommendations from me.

The present appearances of war between our two neighbours, Spain and England, cannot but excite all our attention. The part we are to act is uncertain, and will be difficult. The unsettled state of our affairs with Spain may give a turn to it very different from what we would wish. As it is important that you should be fully apprized of our way of thinking on this subject, I have sketched, in the enclosed paper, general heads of consideration arising from present

circumstances ; these will be readily developed by your own reflections, and in conversations with colonel Humphreys, who, possessing the sentiments of the Executive on this subject, being well acquainted with the circumstances of the western country in particular, and of the state of our affairs in general, comes to Madrid expressly for the purpose of giving you a thorough communication of them. He will therefore remain there as many days or weeks as may be necessary for this purpose. With this information, written and oral, you will be enabled to meet the minister in conversations on the subject of the navigation of the Mississippi, to which we wish you to lead his attention immediately. Impress him thoroughly with the necessity of an early and even an immediate settlement of this matter, and of a return to the field of negotiation for this purpose ; and though it must be done delicately, yet he must be made to understand unequivocally, that a resumption of the negotiation is not desired on our part unless he can determine, in the first opening of it, to yield the immediate and full enjoyment of that navigation.

(I say nothing of the claims of Spain to our territory north of the 31st degree, and east of the Mississippi : they never merited the respect of an answer ; and you know it has been admitted at Madrid that they were not to be maintained.)

It may be asked, what need of negotiation, if the navigation is to be ceded at all events ? You know that the navigation cannot be practised without a port where the sea and river vessels may meet and exchange loads, and where those employed about them may be safe and unmolested. The right to use a thing comprehends a right to the means necessary to its use, and without which it would be useless. The fixing on a proper port, and the degree of freedom it is to enjoy in its operations, will require negotiation, and be governed by events. There is danger indeed that even the unavoidable delay of sending a negotiator here may render the mission too late for the preservation of peace. It is impossible to answer for the forbearance of our western citizens. We endeavour to quiet them with the expectation of an attainment of their rights by peaceable means ; but should they in a moment of impatience hazard others, there is no saying how far we may be led ; for neither themselves nor their rights, will ever be abandoned by us.

You will be pleased to observe, that we press these matters warmly and firmly, under this idea that the war between Spain and Great Britain will be begun before you receive

this ; and such a moment must not be lost. But should an accommodation take place, we retain indeed the same object, and the same resolutions, unalterably ; but your discretion will suggest, that in that event they must be pressed more softly ; and that patience and persuasion must temper your conferences, till either these may prevail, or some other circumstances turn up which may enable us to use other means for the attainment of an object which we are determined in the end to obtain at every risk. I have the honour to be, &c.

TH: JEFFERSON.

William Carmichael, Esq.

*St. Augustine, in Florida, Aug. 2, 1791.*

THE following is delivered by James Seagrove, commissioner on the part of the United States, to his excellency don Juan Nepomaceno de Quesada, governour of the province of East Florida, &c. &c. for his concurrence.

That in order to prevent fugitive slaves from the United States taking shelter in Florida, his excellency the governour will be pleased to issue his proclamation, ordering all officers, civil and military, within this colony, but particularly those on the river St. Marys, to stop all such fugitive slaves, and without delay convey them to the Spanish post on Amelia island ; there to be detained until a person properly authorized by the United States shall there call and receive them, paying at the same time a reasonable price for their maintenance, and also expense of conveying from the place where taken to the place of confinement. The sum to be agreed on by his excellency and the commissioner.

That notice be given as soon as possible by the officer commanding at Amelia to the commanding officer at the American post on St. Marys when any fugitive slaves from the United States are under his care.

That his excellency would be pleased to issue severe orders against any person harbouring or concealing such fugitive slaves ; but that they be obliged to make them prisoners, and deliver them without delay to the nearest Spanish post, and from thence to be conveyed to the general place for receiving them at Amelia.

That his excellency will be pleased to order that all fugitive slaves belonging to the United States, who have taken shelter in Florida since the date of his catholick majesty's order on that head, be immediately restored on the preceding terms.

The commissioner is ready to confer on and explain any matter relative to the preceding, being with all possible respect, &c.

JAMES SEAGROVE.

His Excellency Don Juan Nepomaceno de Quesada,  
Governour and Commander in Chief of the Province of East Florida, &c. &c.  
at St. Augustine.

*Appointment of Mr. Jay. In Congress, July 20, 1785.*

ON the report of a committee to whom was referred a letter of the 8th, from the secretary for foreign affairs, enclosing one of the same date from don Diego Gardoqui,

Resolved, That the honourable John Jay, Secretary to the United States of America for the department of foreign affairs, be and he hereby is invested with full powers, in behalf of the United States of America, to treat, adjust, conclude and sign with don Diego de Gardoqui, the encargado de negocios of his catholick majesty, whatever articles, compacts and conventions may be necessary for establishing and fixing the boundaries between the territories of the said United States and those of his catholick majesty, and for promoting the general harmony and mutual interests of the two nations.

*Mr. Gardoqui's Commission.*

DON CARLOS, by the grace of God, king of Castile, of Leon, of Arragon, of the two Sicilies, of Jerusalem, of Navarre, of Granada, of Toledo, of Valencia, of Galicia, of Majorca, of Seville, of Sardinia, of Cordova, of Corsica, of Murcia, of Jaen, of the Algarves, of Algeevia, of Gibraltar, of the Canary islands, of the East and West Indies, islands and Terra Firma, of the Ocean sea, archduke of Austria, duke of Burgundy, Brabant and Milan, count of Apsburgh, of Flanders, Tirol and Barcelona, lord of Biscay and of Milan, &c. Whereas there are many and very extensive territories in North America appertaining to my crown, and bordering on others of the United States of the same America, it is very convenient to establish and fix the respective limits, and to regulate those other points on which between friendly powers and nations it is always convenient and necessary to have established regulations in order to obviate all differences. The good correspondence and harmony which subsists between us and the said United States

of North America, and the intercourse and commerce which our respective subjects have with each other, requiring that the boundaries which shall continue in future should be regulated in the most positive and notorious manner:—Wherefore, having entire satisfaction and confidence in you don Diego de Gardoqui, commissary (*ordenader*) of my armies, charged with my affairs near the Congress of the said States, on account of your capacity, understanding and zeal, I have conferred upon you full power, that with the person or persons whom the said States and their Congress shall equally authorize, you treat, adjust and sign whatever articles compacts and conventions may be conducive to the regulations of the points herein alluded to, and of others which shall be conducive to the enjoyment of those important and beneficial objects. And that there may always be and subsist a good understanding, friendship and union, between the crown of Spain and the United States of North America, I promise on my royal word to approve, ratify and fulfil, and cause to be observed and fulfilled, exactly and entirely, whatsoever shall be by you stipulated and signed.

In faith whereof, I have caused to be despatched these presents, signed with my hand, sealed with my privy seal, and certified by my underwritten counsellor of state, my first secretary for the despatches of state, at St. Ildefonso, the 27th of September, 1784. I the king.

JOSEPH MONINO.

*Mr. Jay's Commission. The United States in Congress assembled.*

To all who shall see these presents : Greeting.

HIS catholic majesty, having by his encargado de negocios near Congress, expressed his desire to treat and agree with the United States of America upon the points necessary to be adjusted, as being neighbouring powers, and who must have common interests and constant inducements to communication and intercourse, and having for that purpose granted plenipotentiary powers to don Diego de Gardoqui, his said encargado de negocios near Congress; and we being equally desirous of promoting the general harmony and mutual interests of the two nations : For these causes, and other good considerations thereto moving, we, reposing special trust and confidence in the integrity, prudence and ability of our trusty and well beloved John Jay, secretary to the United States of America for the department of fo-

reign affairs, have nominated, constituted and appointed, and by these presents do nominate constitute and appoint him the said John Jay, our minister plenipotentiary, giving and granting to him full powers on behalf of the United States of America, to treat, adjust, conclude and sign with the said don Diego de Gardoqui, encargado de negocios of his catholick majesty, vested with similar powers, whatever articles compacts and conventions may be necessary for establishing and fixing the boundaries between the territories of the said United States and those of his catholick majesty, and for promoting the general harmony and mutual interest of the two nations; and we do hereby promise in good faith to approve, ratify and fulfil, and cause to be observed and fulfilled, exactly and entirely, whatsoever shall be by him our said plenipotentiary stipulated and signed as aforesaid. In testimony whereof we have caused the seal of the United States to be hereunto affixed. Witness his excellency Richard Henry Lee, president, this twenty-first day of July, in the year of our Lord one thousand seven hundred and eighty-five, and of the sovereignty and independence of the United States of America, the tenth.

CHARLES THOMPSON, Secretary.

*Letter from Mr. Gardoqui to Mr. Jay. New York, May 25, 1786.*

SIR,—The period is arrived that we have wished for many months, when there would be a full meeting of Congress, that you might refer to them the difficulty which you have manifested to me respecting the claim to navigate the river Mississippi, which is ill founded. I request the favour of you to do it as soon as possible, and that you will be persuaded of what I have always assured you, that the king will not permit any nation to navigate between the two banks belonging to his majesty, from the extent of his conquests made by his royal arms over the English in East and West Florida, according to the dominion formerly held by the English, and the jurisdiction exercised by the commandant of Pensacola, on which it depended, as well as the countries to the east of the Mississippi, of which formal possession was taken by captain don Baltazar de Villers, commandant of the post of Arkanzar, for his majesty on the 22d of November, 1780.

His majesty does not consider the regulation made between the United States and Great Britain respecting the

territories conquered by his arms, but as a conditional agreement, in which they tacitly leave safe the territorial rights which he possessed in those parts.

Those territories were in that same state of conquest, and in possession neither of England nor the United States when they disposed of them. There can be no doubt but that the treaty of 30th November, 1782, when the war between Spain and England continued, could not fix the limits of countries which were not in possession. His majesty therefore understands those stipulations as conditional, and dependent on the situation in which things might be left by a general peace.

The honourable Congress cannot be ignorant of the good and generous disposition of his majesty towards the United States, and the importance of his powerful friendship; his majesty having been pleased to give so many strong proofs of his favour to the Americans captive in Barbary, and those he afterwards afforded for aiding their commissioners for negotiating and obtaining peace with those powers.

They should also be persuaded that the king enjoys so great consideration with those powers, that as being a nation which possesses the friendship of his majesty, they may be sure of that of the emperor of Morocco, and in a great degree of that contracted with the regency of Algiers. America has reason to fear the evil consequences which all their commerce would experience if his royal mediation should be withdrawn; for she would not only be deprived of that in the Mediterranean, but would also be much interrupted in that which she carries on through the Western Islands and Canaries, and even on her own coasts.

It appears to be equally just to remind the honourable Congress of the generosity with which his majesty has delayed requesting, till now, the payment of the principal of the debts contracted by the United States both in Spain and America, being so delicate as not to apply even for the interest due thereon, notwithstanding the difficulties with which he provides for his treasury.

These facts appear sufficient to remove the difficulties you have manifested to me respecting limits and the navigation of the said river; but I contemplate in its greatest latitude the risk which the United States would run, by not yielding without delay to the just rights of the king, of losing the *only trade* whose balance is in their favour, exposing themselves to the danger of enjoying it but illy, and of frustrating

other compacts reciprocally useful, which time and experience may bring about.

The importance of this object is evident in all the states, for it is well known that all their productions meet with a ready sale in the markets of Spain, where they are paid for in gold and silver; whereas all other nations pay with manufactures (in great part articles of luxury) with which they impoverish this country.

Spain, in its present state, is a consumer both in Europe and America. There is not a nation but what earnestly desires the friendship and favour of the king; and as he has no occasion for the cod fish, oil, salmon, grain, flour, rice, nor other productions, he may, considering the right which obliges his subjects to provide themselves by their own industry, or other useful and important means, find it convenient to prohibit them, to remind this nation, at present as a friend, that they have no treaty.

Whereas, in case they generously comply, the king will consider them in commerce as being the most favoured nation, making reciprocal regulations, so that whenever one is made here favourable to Spain in regard to imports and exports, another equivalent to that of the United States shall be there made.

No one is ignorant of the great advantages which the United States derive from their trade with Spain, from whence they yearly extract millions, as well by their productions as by their navigation, which so much promotes the growth and maintenance of their marine.

Spain has no occasion for foreign commodities to become very brilliant in its proper dominions, and to find an advantageous consumption for its products and manufactures, so that the generosity and friendship which she manifests proceed solely from the benevolent intentions which, with a liberal hand, the king wishes to distinguish the United States.

In consideration that nothing be said of such difficulties I believe that his majesty will consent to guaranty to the United States their rights and dominions as they shall be left by our treaty. I will do my best endeavours on this and other points, and will interpose my prayers that his majesty may adopt the most favourable measures in order that the satisfaction of the debts due from the United States to Spain may be made with such relaxations as may be convenient to them.

The honourable Congress will well perceive the importance of the guaranty and friendship of one of the first sovereigns

in Europe, which will give consistency to their confederacy, and whose magnanimity desires only to proceed by equity, justice, and sincere desires of a constant friendship and good neighbourhood.

I ought not therefore to doubt but that an illustrious confederacy will entertain correspondent dispositions, and I hope you will not delay to promote it, and to advise me as soon as possible, that so salutary a work may not be deferred, to which, for my part, I shall contribute with the greatest good will for the benefit of both nations. I have the honour to be, &c.

DIEGO DE GARDOQUI.

Sir Don John Jay, &c.

*Articles proposed by Don Diego de Gardoqui, in the Treaty with the United States.*

1st. THAT all commercial regulations affecting each other shall be founded in perfect reciprocity. Spanish merchants shall enjoy all the commercial privileges of native merchants in the United States; and American merchants shall enjoy all the commercial privileges of native merchants in the kingdom of Spain, and in the Canaries and other islands belonging and adjacent thereto. The same privileges shall extend to their respective vessels and merchandise, consisting of the manufactures and productions of their respective countries.

2. Each party may establish consuls in the countries of the other (excepting such provinces in Spain into which none have been heretofore admitted, viz. Bilboa, and Guipusca) with such powers and privileges as shall be ascertained by a particular convention.

3. That the bona fide manufactures and productions of the United States, (tobacco only excepted, which shall continue under its present regulations,) may be imported in American or Spanish vessels into any parts of his majesty's European dominions and islands aforesaid, in like manner as if they were the productions of Spain; and on the other hand, that the bona fide manufactures and productions of his majesty's dominions may be imported into the United States in Spanish or American vessels, in like manner as if they were the manufactures and productions of the said States: And further, that all such duties and imposts as may mutually be thought necessary to lay on them, by either party, shall be ascertained and regulated on principles of exact reciprocity, by a tariff to be formed by a convention for that purpose, to be

negotiated and made within one year after the exchange of the ratification of this treaty ; and in the mean time that no other duties or imposts shall be exacted from each other's merchants and ships than such as may be payable by natives in like cases.

4. That inasmuch as the United States, from not having mines of gold and silver, may often want supplies of specie for a circulating medium, his catholick majesty, as a proof of his good will, agrees to order the masts and timber which may from time to time be wanted for his royal navy, to be purchased and paid for in specie in the United States ; provided the said masts and timber shall be of equal quality, and when brought to Spain shall not cost more than the like may there be had for from other countries.

5. It is agreed that the articles commonly inserted in other treaties of commerce, for mutual and reciprocal convenience, shall be inserted in this ; and that this treaty, and every article and stipulation therein, shall continue in full force for years, to be computed from the day of the date hereof.

*Extract from a Representation of Mr. Jay to Congress. August 3, 1786.*

It is certain that, by means of the Canaries, our flour and other commodities will find the way to Spanish America ; and the supply of that market, even by a circuitous route, cannot fail of affording a very lucrative vent for those articles.

Mr. Gardoqui is not personally averse to our visiting the Philippines, but his instructions do not reach that point.

I have hopes that this may be carried ; and in that case it is obvious we should be the better for the Acapulco trade.

*Extract from a Report of Mr. Jay to Congress, August 17th, 1786. Office for Foreign Affairs, August 17, 1786.*

THE Secretary of the United States for the department of foreign affairs, in obedience to the order of Congress directing him to state to them without delay the territorial claims of Spain on the east side of the Mississippi, and the sentiments of France touching our right to navigate that river—Reports—

That the time allotted for this report must necessarily render it concise and summary.

It is well known that Spain claims the two Floridas, and contends that West Florida extends higher up the river

Mississippi than is admitted by our treaty with Britain; but how much higher, exactly, your secretary is uninformed; and has reason to think that Spain has not yet made up her own mind on that point.

Spain also claims certain posts and places on the Mississippi, of which she divested the English during the war; but how far they mean to stretch their claims over the adjacent country, the negotiations between Mr. Gardequi and your secretary have not as yet extended so minutely to that point as to enable him to determine.

On the 26th day of April, 1782, your secretary, who was then at Madrid, wrote a letter to the secretary for foreign affairs, of which the following is an extract:

‘The Madrid Gazette of the 12th March contained a paragraph of which you ought not to be ignorant. I shall therefore copy it verbatim, and add a translation as literal as I can make it.’

#### TRANSLATION.

“By a letter from the commandant general of the army of operations at the Havanna, and governour of Louisiana, his majesty has advices that a detachment of sixty-five militia men and sixty Indians of the nations Otagicos, Soties and Putuatarmi, under the command of don Eugenio Parre, a captain of militia, accompanied by don Carlos Tayon, a sub lieutenant of militia, by don Luis Chavalier, a man well versed in the language of the Indians, and by their great chiefs Etetevino and Naugen which marched the 2d January, 1781, from the town of St. Luis of the Ilionese, had possessed themselves of the post of St. Joseph, which the English occupied, at 220 leagues distance from that of the above mentioned St. Luis, having suffered in so extensive a march and so rigorous a season the greatest inconveniences from cold and hunger, exposed to continual risks from the country being possessed by savage nations, and having to pass over parts covered with snow, and each one being obliged to carry provisions for his own subsistence, and various merchandises, which were necessary to content in case of need the barbarous nations through whom they were obliged to cross. The commander, by seasonable negotiations and precautions, prevented a considerable body of Indians, who were at the devotion of the English, from opposing this expedition; for it would otherwise have been difficult to have accomplished the taking of the said post. They

made prisoners of the few English they found in it, the others having, perhaps, retired in consequence of some prior notice. Don Eugenio Parre took possession, in the name of the king, of that place and its dependencies, and of the river of the Illinois; in consequence whereof the standard of his majesty was there displayed during the whole time. He took the English one, and delivered it, on his arrival at St. Luis, to don Francisco Cruyal the commandant at that post.

“The destruction of the magazine of provisions and goods which the English had there (the greater part of which was divided among our Indians and those who lived at St. Joseph, as had been offered them in case they did not oppose our troops) was not the only advantage resulting from the success of this expedition; for thereby it became impossible for the English to execute their plan of attacking the fort of St. Luis of the Illinois; and it also served to intimidate those savage nations, and oblige them to promise to remain neutral, which they do at present.”

‘When you consider the ostensible object of this expedition, the distance of it, the formalities with which the place, the country, and the river were taken possession of in the name of his catholick majesty, I am persuaded it will not be necessary for me to swell this letter with remarks that would occur to a reader of far less penetration than yourself.’

This is the only circumstance or transaction which your secretary recollects to have heard, while in Spain, which induced him to suppose that his catholick majesty wished to acquire any lands east of the Mississippi, except the Floridas. Neither the count de Florida Blanca, nor Mr. Gardoqui, who was then employed, nor Mr. Dil Campo, ever hinted to your secretary that a cession of any territory was expected or desired of the United States. All that was then insisted upon was our quitting all claim to the navigation of the Mississippi below our territories.

When your secretary came to Paris, in the year 1782, count Aranda, the Spanish ambassador there, appeared to have far other ideas upon the subject. Your secretary’s conferences with him being detailed in his letter of the 17th of November, 1782, it does not appear necessary to repeat them here, nor to extract more from that letter than merely to observe, that the count did mark a line on a map as and for a proper line of boundary between Spain and the United States in that western country. That same map is now in the possession of the secretary of Congress.

Although your secretary has not yet obtained from Mr. Gardoqui an exact and specifick specification of the Spanish claims, yet he has good reason to believe that they fall very short of those suggested by count Aranda.

Your secretary thinks he should not omit inserting in this report the following extract from a correspondence on these subjects between the marquis de la Fayette and count de Florida Blanca, viz.

## TRANSLATION.

*Madrid, February 19, 1783.*

SIR,—Having had the honour to confer with your excellency on the objects relative to the United States, and being soon to repair to the American Congress, I wish to be fully impressed with the result of our conversations. Instead of the indifference and even of the divisions which another nation would be glad to foresee, I am happy to have it in my power to inform the United States of your good dispositions. It is to you, sir, I am indebted for this advantage; and in order to make it complete, and to make myself certain that I forgot nothing, give me leave to submit to your excellency the report which I intend to lay before Congress.

His catholick majesty desires that a lasting confidence and harmony may subsist between him and the United States; and he is determined, on his part, to do every thing that will be necessary to keep it up. The American *charge des affaires* is at this moment received as such, and your excellency is going to treat of the interests of the two nations. As you wish to shew Mr. Jay every kind of regard, you wait only until the count de Aranda shall have notified your dispositions to him to present Mr. Carmichael to his majesty.

With respect to the limits, his catholick majesty has adopted those that are determined by the preliminaries of the 30th November between the United States and the court of London. The fear of raising an object of dissension is the only objection the king has to the free navigation of the river Mississippi.

The Virginia tobacco, the naval stores, may furnish matter for reciprocal conventions on the treaty, and by means of the productions of America, arrangements might be made useful to her finances. When I had the honour to speak to you in favour of a diminution of the duties on cod fish, you have answered, that it would be necessary to give to France

a similar advantage, and that by virtue of former treaties the English might set up pretensions to the same; but you will do in every respect all that will be in your power to satisfy America.

I would with very great pleasure enter into every detail in which I foresee a connection with Spain and the United States, but I am not to be concerned in this happy work; the ministers of the United States and the one whom you are going to send thither are to make it their business, and I content myself with reminding you of the general ideas you have given me. A word from you will satisfy me that I have not forgot any thing. The dispositions of his catholick majesty and the candour of your excellency will leave no pretence for misrepresentation. The alliance of the house of Bourbon with the United States is founded on reciprocal interest; it will still acquire greater strength from the confidence which your excellency wishes to establish.

Such, sir, are the conclusions which I have drawn from our conferences, and the account which I intend to give to Congress, without having any mission for that purpose. I am acquainted with the sentiments of Congress, and I am convinced they will set a just value upon your dispositions. In permitting me to acquaint them with what I have seen, you lay a claim to my personal gratitude. I join the assurance of it to that of the respect with which I have the honour to be, &c.

LA FAYETTE.

To His Excellency the Count de Florida Blanca.

*Pardo, February 22, 1783.*

SIR,—I cannot comply better with your desire than by asking your leave to give you here my answer. You have perfectly well understood whatever I have had the honour to communicate to you with respect to our dispositions towards the United States. I shall only add, that although it is his majesty's intentions to abide for the present by the limits established by the treaty of the 30th of November, 1782, between the English and the Americans, the king intends to inform himself particularly whether it can be in any wise inconvenient or prejudicial to settle the affair amicably with the United States.

FLORIDA BLANCA.

To the Marquis de la Fayette.

*Madrid, February 22, 1783.*

On receiving the answer of the count de Florida Blanca, I desired an explanation respecting the addition that relates to the limits. I was answered that it was a fixed principle to abide by the limits established by the treaty between the English and Americans; that his remark related only to more unimportant details which he wished to receive from the Spanish commandants, which would be amicably regulated, and would by no means oppose the general principle. I asked him before the ambassador of France whether he would give me his word of honour for it: he assured me *he would*, and that I might engage it to the United States.

LA FAYETTE.

*Copy of a Letter from Mr. Jay to Mr. Gardoqui. Office for Foreign Affairs, October 17, 1788.*

SIR,—I have the honour of informing you that Congress have deemed it expedient, in the present situation of affairs, to refer their negotiations with his catholick majesty to the federal government, which is to assemble in March next. The dissolution of one government and the establishment of another form a period little adapted to negotiations, especially in a popular government. The inconveniences which thence arise are obvious, and need not be enumerated, especially as you are well apprized that the term of the present Congress is nearly expired, and that a succeeding Congress adequate to such business will not probably convene during the winter.

As these facts render the measure in question proper, I am persuaded you will so represent and explain it to his catholick majesty, as that it may be ascribed to the peculiar situation of our national government, and not to any desire or disposition to postpone a business which it is the interest of both parties to have speedily and satisfactorily settled. I have the honour to be, &c.

JOHN JAY.

THE Secretary of State reports, to the President of the United States, that one of the commissioners of Spain, in the name of both, has lately communicated to him verbally, by order of his court, that his catholick majesty, apprized of our

solicitude to have some arrangement made respecting our free navigation of the river Mississippi, and the use of a port thereon, is ready to enter into treaty thereon at Madrid.

The Secretary of State is of opinion that this overture should be attended to without delay, and that the proposal of treating at Madrid, though not what might have been desired, should yet be accepted, and a commission plenipotentiary made out for the purpose.

That Mr. Carmichael, the present charge des affaires of the United States at Madrid, from the local acquaintance which he must have acquired with persons and circumstances, would be an useful and proper member of the commission; but that it would be useful also to join with him some person more particularly acquainted with the circumstances of the navigation to be treated of.

That the fund appropriated by the act providing the means of intercourse between the United States and foreign nations will insufficiently furnish the ordinary and regular demands on it, and is consequently inadequate to the mission of an additional commissioner express from hence.

That therefore it will be advisable on this account, as well as for the sake of despatch, to constitute some one of the ministers of the United States in Europe jointly with Mr. Carmichael, commissioners plenipotentiary, for the special purpose of negotiating and concluding with any person or persons duly authorized by his catholic majesty, a convention or treaty for the free navigation of the river Mississippi by the citizens of the United States, under such accommodations with respect to a port and other circumstances as may render the said navigation practicable, useful, and free from dispute: saying to the President and Senate their respective rights as to their ratification of the same; and that the said negotiation be at Madrid, or such other place in Spain, as shall be desired by his catholic majesty.

December 22, 1791.

TH: JEFFERSON.

THE appointment of Mr. Carmichael and Mr. Short, as commissioners to negotiate, with the court of Spain, a treaty or convention relative to the navigation of the Mississippi, and which perhaps may be extended to other interests rendering it necessary that the subjects to be treated of should be developed, and the conditions of arrangement explained:

The Secretary of State reports to the President of the United States the following observations on the subjects of

negotiation between the United States of America and the court of Spain, to be communicated by way of instruction to the commissioners of the United States appointed as before mentioned to manage that negotiation.

These subjects are

I. Boundary.

II. The navigation of the Mississippi.

III. Commerce.

I. As to boundary, that between Georgia and Florida is the only one which will need any explanation. Spain sets up a claim to possessions within the state of Georgia, founded on her having rescued them by force from the British during the late war. The following view of that subject seems to admit no reply.

The several states now composing the United States of America were, from their first establishment, separate and distinct societies dependent on no other society of men whatever. They continued at the head of their respective governments the executive magistrate who presided over the one they had left, and thereby secured in effect a constant amity with the nation. In this stage of their government, their several boundaries were fixed, and particularly the southern boundary of Georgia, the only one now in question, was established at the 31st degree of latitude from the Apalachicola westwardly; and the western boundary, originally the Pacifick ocean, was by the treaty of Paris reduced to the middle of the Mississippi. The part which our chief magistrate took in a war, waged against us by the nation among whom he resided, obliged us to discontinue him, and to name one within every state. In the course of this war we were joined by France, as an ally, and by Spain and Holland, as associates; having a common enemy, each sought that common enemy wherever they could find him. France, on our invitation, landed a large army within our territories, continued it with us two years, and aided us in recovering sundry places from the possession of the enemy. But she did not pretend to keep possession of the places rescued. Spain entered into the remote western part of our territory, dislodged the common enemy from several posts they held therein, to the annoyance of Spain; and perhaps thought it necessary to remain in some of them, as the only means of preventing their return. We, in like manner, dislodged them from several posts in the same western territory, to wit, Vincennes, Cahokia, Kaskaskia, &c. rescued the inhabitants, and retained constantly afterwards both them and the territory under our possession.

and government. At the conclusion of the war, Great Britain, on the 30th of Nov. 1782, by treaty acknowledged our independence and our boundary, to wit, the Mississippi to the west, and the completion of the 31st degree &c. to the south. In her treaty with Spain, concluded seven weeks afterwards, to wit, January 20th, 1783, she ceded to her the two Floridas which had been defined in the proclamation of 1763, and Minorca; and by the 8th article of the treaty, Spain agreed to restore, *without compensation*, all the territories conquered by her, and not included in the treaty either under the head of cessions or restitutions, that is to say, all except Minorca and the Floridas. According to this stipulation Spain was expressly bound to have delivered up the possessions she had taken within the limits of Georgia, to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the United States; or rather she should have delivered them to the United States themselves, as standing *quoad hoc* in the place of Great Britain. And she was bound by natural right to deliver them to the same United States on a much stronger ground, as the real and only proprietors of those places, which she had taken possession of in a moment of danger, without having had any cause of war with the United States, to whom they belonged, and without having declared any; but on the contrary, conducting herself in other respects as a friend and associate. Vattel, L. 3, 122.

It is an established principle, that conquest gives only an inchoate right, which does not become perfect till confirmed by the treaty of peace, and by a renunciation or abandonment by the former proprietor. Had Great Britain been that former proprietor, she was so far from confirming to Spain the right to the territory of Georgia, invaded by Spain, that she expressly relinquished to the United States any right that might remain in her; and afterwards completed that relinquishment by procuring and consolidating with it the agreement of Spain herself to restore such territory without compensation. It is still more palpable that a war existing between two nations, as Spain and Great Britain, could give to neither the right to seize and appropriate the territory of a third, which is even neutral, much less which is an associate in the war, as the United States were with Spain. See on this subject Grotius, L. 3. C. 6, §. 26. Puffendorf, L. 8. C. § 17, 23. Vattel, L. 3. § 197, 198.

On the conclusion of the general peace, the United States lost no time in requiring from Spain an evacuation of their

territory. This has been hitherto delayed by means which we need not explain to that court, but which have been equally contrary to our right and to our consent.

Should Spain pretend, as has been intimated, that there was a secret article of treaty between the United States and Great Britain, agreeing, if at the close of the war the latter should retain the Floridas, that then the southern boundary of Georgia should be the completion of the 32d degree of latitude, the commissioners may safely deny all knowledge of the fact, and refuse conference on any such postulatam. Or should they find it necessary to enter into argument on the subject, they will of course do it hypothetically; and in that way may justly say, on the part of the United States: suppose that the United States, exhausted by a bloody and expensive war with Great Britain, might have been willing to have purchased peace by relinquishing, under a particular contingency, a small part of their territory, it does not follow that the same United States, recruited and better organized, must relinquish the same territory to Spain without striking a blow. The United States, too, had irrevocably put it out of their power to do it by a new constitution which guarantied every state against the invasion of its territory. A disastrous war indeed might, by necessity, supersede this stipulation (as necessity is above all law) and oblige them to abandon a part of a state; but nothing short of this can justify or obtain such an abandonment.

The southern limits of Georgia depend chiefly on,

1. The charter of Carolina to the lords proprietors, in 1663, extending southwardly to the river Matheo, now called St. John, supposed in the charter to be in latitude 31, and so west in a direct line so far as the South Sea. See the charter in 4th \* *Memoires de l'Amerique*, 554.

2. On the proclamation of the British king, in 1763, establishing the boundary between Georgia and the two Floridas to begin on the Mississippi on the 31st degree of latitude north of the equator, and running eastwardly to the Apalachicola; thence along the said river to the mouth of the Flint; thence in a direct line to the source of St. Mary's river, and down the same to the ocean. This proclamation will be found in *Postlewayte Voce* "British America."

\* Mr. Short is desired to purchase this book at Amsterdam, or Paris, as he may not find it at Madrid; and when it shall have answered the purposes of this mission, let it be sent here for the use of the Secretary of State's office.

3. On the treaties between the United States and Great Britain, of November 30, 1782, and September 3, 1783, repeating and confirming these ancient boundaries.

There was an intermediate transaction, to wit; a convention concluded at the Pardo, in 1739, whereby it was agreed that ministers plenipotentiary should be immediately appointed by Spain and Great Britain for settling the limits of Florida and Carolina. The convention is to be found in the collections of treaties. But the proceedings of the plenipotentiaries are unknown here. Qu. if it was on that occasion that the southern boundary of Carolina was transferred from the latitude of Matheo or St. John's river further north to the St. Mary's? Or was it the proclamation of 1763 which first removed this boundary? [If the commissioners can procure in Spain a copy of whatever was agreed on in consequence of the convention of the Pardo, it is a desirable state paper here.]

To this demonstration of our rights may be added the explicit declaration of the court of Spain, that she would accede to them. This took place in conversations and correspondence thereon between Mr. Jay, minister plenipotentiary for the United States at the court of Madrid, the marquis de la Fayette, and the count de Florida Blanca. Monsieur de la Fayette, in his letter of February 19th, 1783, to the count de Florida Blanca, states the result of their conversations on limits in these words:—"With respect to limits, his catholic majesty has adopted those that are determined by the preliminaries of the 30th of November between the United States and the court of London." The count de Florida Blanca, in his answer of February 22, to M. de la Fayette, says, "although it is his majesty's intention to abide for the present by the limits established by the treaty of the 30th of November, 1782, between the English and the Americans, the king intends to inform himself particularly whether it can be in any wise inconvenient or prejudicial to settle that affair amicably with the United States;" and M. de la Fayette, in his letter of the same day to Mr. Jay, wherein he had inserted the preceding says, "on receiving the answer of the count de Florida Blanca (to wit, his answer before mentioned to M. de la Fayette) I desired an explanation respecting the addition that relates to the limits. I was answered, that it was a fixed principle to abide by the limits established by the treaty between the English and the Americans; that his remark related only to mere unimportant details, which he wished to receive from the Spanish commandants, which

would be amicably regulated, and *would by no means oppose the general principle*. I asked him before the ambassador of France [M. de Montmorin,] whether he would give me his word of honour for it; he assured me he would, and that I might engage it to the United States. See the report sent herewith.

## II. The navigation of the Mississippi.

Our right to navigate that river, from its source to where our southern boundary strikes it, is not questioned. It is from that point downwards only that the exclusive navigation is claimed by Spain; that is to say, where she holds the country on both sides, to wit, Louisiana on the west and Florida on the east.

Our right to participate in the navigation of that part of the river also, is to be considered under

1. The treaty of Paris of 1763.
2. The revolution treaty of 1782-3.
3. The law of nature and nations.

1. The war of 1755-1763 was carried on jointly by Great Britain and the thirteen colonies, now the United States of America, against France and Spain. At the peace which was negotiated by our common magistrate, a right was secured to the subjects of Great Britain (the common designation of all those under his government) to navigate the Mississippi in its whole breadth and length, from its source to the sea, and expressly that part which is between the island of New Orleans and the right bank of the river, as well as the passage both in and out of its mouth; and that the vessels should not be stopped, visited, or subjected to the payment of any duty whatsoever. These are the words of the treaty, article vii. Florida was at the same time ceded by Spain, and its extent westwardly was fixed to the lakes Ponchartrain and Maurepas and the river Mississippi; and Spain received soon after from France a cession of the island of New Orleans, and all the country she held westwardly of the Mississippi, subject of course to our right of navigation between that country and the island previously granted to us by France. This right was not parcelled out to us in severalty, that is to say, to each the exclusive navigation of so much of the river as was adjacent to our several shores, in which way it would have been useless to all, but it was placed on that footing on which alone it could be worth any thing, to wit, as a right to all to navigate the whole length of the river in common. The import of the terms and the reason of the thing prove it was a right of common in the whole, and not a

several right to each of a particular part. To which may be added the evidence of the stipulation itself, that we should navigate between New Orleans and the western bank, which, being adjacent to none of our states, could be held by us only as a right of common. Such was the nature of our right to navigate the Mississippi, as far as established by the treaty of Paris.

2. In the course of the revolutionary war, in which the thirteen colonies, Spain, and France, were opposed to Great Britain, Spain took possession of several posts held by the British in Florida. It is unnecessary to inquire whether the possession of half a dozen posts scattered through a country of seven or eight hundred miles extent could be considered as the possession and conquest of that country. If it was, it gave still but an inchoate right, as was before explained, which could not be perfected but by the relinquishment of the former possession at the close of the war; but certainly it could not be considered as a conquest of the river, even against Great Britain, since the possession of the shores, to wit, the island of New Orleans on the one side, and Louisiana on the other, having undergone no change, the right in the water would remain the same, if considered only in its relation to them; and if considered as a distinct right, independent of the shores, then no naval victories obtained by Spain over Great Britain in the course of the war gave her the colour of conquest over any water which the British fleet could enter. Still less can she be considered as having conquered the river, as against the United States, with whom she was not at war. We had a common right of navigation in the part of the river between Florida, the island of New Orleans, and the western bank, and nothing which passed between Spain and Great Britain, either during the war, or at its conclusion, could lessen that right. Accordingly, at the treaty of November, 1782, Great Britain confirmed the rights of the United States to the navigation of the river, from its source to its mouth, and in January, 1783, completed the right of Spain to the territory of Florida by an absolute relinquishment of all her rights in it. This relinquishment could not include the navigation held by the United States in their own right, because this right existed in themselves only, and was not in Great Britain. If it added any thing to the rights of Spain respecting the river, between the eastern and western banks, it could only be that portion of right which Great Britain had retained to herself in the

treaty with the United States, held seven weeks before, to wit, a right of using it in common with the United States.

So that as by the treaty of 1763, the United States had obtained a common right of navigating the whole river from its source to its mouth: so by the treaty of 1782, that common right was confirmed to them by the only power who could pretend claims against them founded on the state of war; nor has that common right been transferred to Spain by either conquest or cession.

But our right is built on ground still stronger and more unquestionable, to wit:

3. On the law of nature and nations.

If we appeal to this, as we feel it written on the heart of man, what sentiment is written in deeper characters than that the ocean is free to all men, and their rivers to all their inhabitants? Is there a man, savage or civilized, unbiassed by habit, who does not feel and attest this truth? Accordingly, in all tracts of country united under the same political society, we find this natural right universally acknowledged and protected by laying the navigable rivers open to all their inhabitants. When their rivers enter the limits of another society, if the right of the upper inhabitants to descend the stream is in any case obstructed, it is an act of force by a stronger society against a weaker, condemned by the judgment of mankind. The late case of Antwerp and the Scheld was a striking proof of a general union of sentiment on this point; as it is believed that Amsterdam had scarcely an advocate out of Holland, and even there its pretensions were advocated on the ground of treaties, and not of natural right. (The commissioners would do well to examine thoroughly what was written on this occasion.) The commissioners will be able perhaps to find, either in the practice or the pretensions of Spain, as to the Dauro, Tagus, and Guadiana, some acknowledgments of this principle on the part of that nation. This sentiment, of right, in favour of the upper inhabitants must become stronger in the proportion which their extent of country bears to the lower. The United States hold 600,000 square miles of inhabitable territory on the Mississippi and its branches, and this river and its branches affords many thousands of miles of navigable waters penetrating this territory in all its parts. The inhabitable grounds of Spain below our boundary and bordering on the river, which alone can pretend any fear of being incommoded by our use of the river, are not the thousandth part of that extent. This vast portion of territory of the United States has

no other outlet for its productions, and these productions are of the bulkiest kind. And in truth their passage down the river may not only be innocent, as to the Spanish subjects on the river, but cannot fail to enrich them far beyond their present condition. The real interests then of all the inhabitants, upper and lower, concur in fact with their rights.

If we appeal to the law of nature and nations, as expressed by writers on the subject, it is agreed by them, that were the river, where it passes between Florida and Louisiana the exclusive right of Spain, still an innocent passage along it is a natural right in those inhabiting its borders above. It would indeed be what those writers call an imperfect right, because the modification of its exercise depends in a considerable degree on the conveniency of the nation through which they are to pass. But it is still a right as real as any other right, however well defined; and were it to be refused, or to be so shackled by regulations not necessary for the peace or safety of its inhabitants, as to render its use impracticable to us, it would then be an injury, of which we should be entitled to demand redress. The right of the upper inhabitants to use this navigation is the counterpart to that of those possessing the shores below, and founded in the same natural relations with the soil and water. And the line at which their rights meet is to be advanced or withdrawn, so as to equalize the inconveniences resulting to each party from the exercise of the right by the other. This estimate is to be fairly made with a mutual disposition to make equal sacrifices, and the numbers on each side are to have their due weight in the estimate. Spain holds so very small a tract of habitable land on either side below our boundary that it may in fact be considered as a strait in the sea; for though it is 80 leagues from our boundary to the mouth of the river, yet it is only here and there in spots and slips that the land rises above the level of the water in times of inundation. There are then and ever must be so few inhabitants on her part of the river that the freest use of its navigation may be admitted to us without their annoyance. For authorities on this subject, see Grot. L. 2. c. 2. § 11, 12, 13. c. 3. § 7, 8, 12. Puffendorf, L. 3. c. 3. § 3, 4, 5, 6. Wolff's inst. § 310, 311, 312. Vattel, L. 1. § 292. L. 2. § 123 to 139.



It is essential to the interests of both parties that the navigation of the river be free to both, on the footing on which it was defined by the treaty of Paris, viz. through its whole breadth. The channel of the Mississippi is remarkably winding, crossing and recrossing perpetually from one side to the other of the general bed of the river. Within the elbows thus made by the channel there is generally an eddy setting upwards, and it is by taking advantage of these eddies, and constantly crossing from one to another of them, that boats are enabled to ascend the river. Without this right the whole river would be impracticable both to the Americans and Spaniards.

It is a principle that the right to a thing gives a right to the means without which it could not be used, that is to say, that the means follow the end. Thus a right to navigate a river draws to it a right to moor vessels to its shores, to land on them in cases of distress, or for other necessary purposes, &c. This principle is founded in natural reason, is evidenced by the common sense of mankind, and declared by the writers before quoted. See Grot. L. 2. c. 2. § 15. Puffend. L. 3. c. 3. § 8. Vattel, L. 2. § 129.

The Roman law, which, like other municipal laws, placed the navigation of their rivers on the footing of nature, as to their own citizens, by declaring them publick,\* (*flumina publica sunt, hoc est populi Romani*, Inst. 2. T. 1. § 2) declared also that the right to the use of the shores was incident to that of the water. Ibid § 1, 3, 4, 5. The laws of every country probably do the same. This must have been so understood between France and Great Britain, at the treaty of Paris, when a right was ceded to British subjects to navigate the whole river, and expressly that part between the island of New Orleans and the western bank, without stipulating a word about the use of the shores, though both of them belonged then to France, and were to belong immediately to Spain. Had not the use of the shores been considered as incident to that of the water, it would have been expressly stipulated; since its necessity was too obvious to have escaped either party. Accordingly all British subjects used the shores habitually for the purposes necessary to the naviga-

\* Rivers belong to the publick, that is to say to the Roman people.

tion of the river; and when a Spanish governour undertook at one time to forbid this, and even cut loose the vessels fastening to the shores, a British frigate went immediately, moored itself to the shore opposite the town of New Orleans, and set out guards with orders to fire on such as might attempt to disturb her moorings. The governour acquiesced, the right was constantly exercised afterwards, and no interruption ever offered.

This incidental right extends even beyond the shores, when circumstances render it necessary to the exercise of the principal right; as in the case of a vessel damaged, where the mere shore could not be a safe deposit for her cargo till she could be repaired, she may remove it into safe ground off the river. The Roman law shall be quoted here too, because it gives a good idea both of the extent and the limitations of this right. Ins. L. 2. T. 1. § 4.\* *Riparum quoque usus publicus est, ut volunt jura gentium, sicut et ipsius fluminis usus publicus est. Itaque et navigium ad ripes appellere, et funes de arboribus ibi natis religare, et navis onera in his locis reponere, liberum quique est sicuti nec per flumen ipsum navigare quisquam prohibetur.* And again,† § 5, *litorum quoque usus publicus, sive juri gentium est, ut et ipsius maris et ob id data est facultas volentibus, casas ibi sibi componere, in quas se recipere possint &c.* Again, § 1.‡ *Nemo igitur ad litora maris accedere prohibetur: veluti deambulare aut navem appellere, sic tamen ut a villis, id est domiciliis monumentisque ibi positis, et ab edificiis absteineat, nec iis damnum inferat.*

Among incidental rights are those of having pilots, buoys, beacons, landmarks, light houses, &c. to guide the navigators. The establishment of these at joint expense, and under joint regulations, may be the subject of a future convention. In the meantime both should be free to have

\* 'The use of the banks belongs also to the publick by the law of nations, as the use of the river itself does. Therefore every one is free to moor his vessel to the bank, to fasten his cables to the trees growing on it, to deposit the cargo of his vessel in those places in like manner as every one is free to navigate the river itself.'

† 'The use of the shores also belongs to the publick, or is under the law of nations, as is that of the sea itself. Therefore it is that those who choose have a right to build huts there, into which they may betake themselves.'

‡ 'Nobody, therefore, is prohibited from landing on the sea shore, walking there, or mooring their vessel there, so nevertheless that they keep out of the villas, that is the habitations, monuments, and publick buildings erected there, and do them no injury.'

their own, and refuse those of the other, both as to use and expense.

Very peculiar circumstances attending the river Mississippi require that the incidental right of accommodation on the shore, which needs only occasional exercise on other rivers, should be habitual and constant on this. Sea vessels cannot navigate that river, nor the river vessels go to sea. The navigation would be useless then without an entrepot, where these vessels might safely deposit their own cargoes, and take those left by the others; and where warehouses and keepers might be constantly established for the safeguard of the cargoes. It is admitted, indeed, that the incidental right thus extended into the territory of the bordering inhabitants is liable to stricter modifications in proportion as it interferes with their territorial right. But the inconvenience of both parties are still to have their weight, and reason and moderation on both sides are to draw the line between them. As to this, we count much on the liberality of Spain, on her concurrence in opinion with us that it is for the interest of both parties to remove completely this germ of discord from between us, and draw our friendship as close as circumstances proclaim that it should be, and on the considerations which make it palpable that a convenient spot, placed under our exclusive occupation, and exempted from the jurisdiction and police of their government, is far more likely to preserve peace than a mere free port where eternal altercations would keep us in eternal ill humour with each other. The policy of this measure, and indeed of a much larger concession, having been formerly sketched in a paper of July 12th, 1790, sent to the commissioners severally, they are now referred to that.

If this be agreed to, the manner of fixing on that extra territorial spot becomes highly interesting. The most desirable to us would be a permission to send commissioners to choose such spot below the town of New Orleans as they should find most convenient.

If this be refused, it would be better now to fix on the spot. Our information is that the whole country below the town, and for sixty miles above it, on the western shore, is low, marshy, and subject to such deep inundation for many miles from the river, that if capable of being reclaimed at all by banking, it would still never afford an entrepot sufficiently safe: that on the eastern side the only lands below the town, not subject to inundation, are at the Detour aux Anglois, or English turn, the highest part of which is that

whereon the fort St. Marie formerly stood. Even this is said to have been raised by art, and to be very little above the level of the inundations. This spot then is what we would fix on, if obliged now to decide, with from one to as many square miles of the adjacent lands as can be obtained, and comprehending expressly the shores above and below the site of the fort as far as possible. But as to the spot itself, the limits, and even whether it shall be extra territorial, or only a free port, and what regulations it shall be laid under, the convenience of that government is entitled to so much respect and attention on our part, that the arrangement must be left to the management of the commissioners, who will doubtless use their best efforts to obtain all they can for us.

The worst footing on which the determination of the ground could be placed would be a reference to joint commissioners; because their disagreement, a very probable nay certain event, would undo the whole convention, and leave us exactly where we now are. Unless indeed they will engage to us, in case of such disagreement, the highest ground at the Detour aux Anglois, of convenient extent, including the landings and harbour thereto adjacent. This would ensure us that ground, unless better could be found and mutually preferred, and close the delay of right under which we have so long laboured for peace sake.

It will probably be urged, because it was urged on a former occasion, that if Spain *grants* to us the right of navigating the Mississippi, other nations will become entitled to it by virtue of treaties giving them the rights of the *most favoured nation*.

Two answers may be given to this :

1. When those treaties were made no nations could be under contemplation but those then existing, or those at most who might exist under similar circumstances. America did not then exist as a nation; and the circumstances of her position and commerce are so totally dissimilar to every thing then known that the treaties of that day were not adapted to any such being. They would better fit even China than America; because, as a manufacturing nation, China resembles Europe more. When we solicited France to admit our whale oils into her ports, though she had excluded all foreign whale oils, her minister made the objection now under consideration, and the foregoing answer was given. It was found to be solid; and the whale oils of the United States are in consequence admitted, though those of Portugal and the

Hanse towns and of all other nations are excluded. Again, when France and England were negotiating their late treaty of commerce, the great dissimilitude of our commerce (which furnishes raw materials to employ the industry of others, in exchange for articles whereon industry has been exhausted) from the commerce of the European nations (which furnishes things ready wrought only,) was suggested to the attention of both negotiators, and that they should keep their nations free to make particular arrangements with ours, by communicating to each other only the rights of the most favoured European nation. Each was separately sensible of the importance of the distinction; and as soon as it was proposed by the one, it was acceded to by the other, and the word *European* was inserted in their treaty. It may fairly be considered then as the rational and received interpretation of the diplomatic term,\* "*gentis amicissimæ*," that it has not in view a nation unknown in many cases at the time of using the term, and so dissimilar in all cases as to furnish no ground of just reclamation to any nation.

2. But the decisive answer is, that Spain does not grant us the navigation of the river. We have an inherent right to it: and she may repel the demand of any other nation by candidly stating her act to have been, what in truth it is, a recognition only, and not a grant.

If Spain apprehends that other nations may claim access to our ports in the Mississippi under their treaties with us, giving them a right to come and trade in all our ports, though we would not choose to insert an express stipulation against them, yet we shall think ourselves justified to acquiesce in fact under any regulations Spain may from time to time establish against their admission.

Should Spain renew another objection, which she relied much on before, that the English at the revolution treaty could not cede to us what Spain had taken from them by conquest, and what of course they did not possess themselves; the preceding observations furnish sufficient matter for refutation.

To conclude the subjects of boundary and navigation, each of the following conditions is to be considered by the commissioners as a *sine qua non*.

1. That our southern boundary remain established at the completion of 31 degrees of latitude on the Mississippi, and so on to the ocean, as has been before described, and our

\* 'The most favoured nation.'

western one along the middle of the channel of the Mississippi, however that channel may vary, as it is constantly varying, and that Spain cease to occupy or to exercise jurisdiction in any part northward or eastward of these boundaries.

2. That our right be acknowledged of navigating the Mississippi, in its whole breadth and length, from its source to the sea, as established by the treaty of 1763.

3. That neither the vessels, cargoes, or the persons on board, be stopped, visited, or subjected to the payment of any duty whatsoever; or, if a visit must be permitted, that it be under such restrictions as to produce the least possible inconvenience. But it should be altogether avoided, if possible, as the parent of perpetual broils.

4. That such conveniences be allowed us ashore as may render our right of navigation practicable, and under such regulations as may bona fide respect the preservation of peace and order alone, and may not have in object to embarrass our navigation, or raise a revenue on it. While the substance of this article is made a *sine qua non*, the modifications of it are left altogether to the discretion and management of the commissioners.

We might add, as a fifth *sine qua non*, that no phrase should be admitted in the treaty which could express or imply that we take the navigation of the Mississippi as a *grant* from Spain. But, however disagreeable it would be to subscribe to such a sentiment, yet were the conclusion of a treaty to hang on that single objection, it would be expedient to wave it, and to meet at a future day the consequences of any resumption they may pretend to make, rather than at present those of a separation without coming to any agreement.

We know not whether Spain has it in idea to ask a compensation for the ascertainment of our right.

1. In the first place, she cannot in reason ask a compensation for yielding what we have a right to, that is to say, the navigation of the river, and the conveniences incident to it of natural right.

2. In the second place, we have a claim on Spain for indemnification for nine years exclusion from that navigation, and a reimbursement of the heavy duties (not less for the most part than 15 per cent. on extravagant valuations) levied on the commodities she has permitted to pass to New Orleans. The relinquishment of this will be no unworthy equivalent for any accommodations she may indulge us with.

beyond the line of our strict right. And this claim is to be brought into view in proper time and manner, merely to be abandoned in consideration of such accommodations. We have nothing else to give in exchange. For as to territory, we have neither the right nor the disposition to alienate an inch of what belongs to any member of our Union. Such a proposition therefore is totally inadmissible, and not to be treated of for a moment.

3. On the former conferences on the navigation of the Mississippi, Spain chose to blend with it the subject of commerce; and accordingly specifick propositions thereon passed between the negotiators. Her object then was to obtain our renunciation of the navigation, and to hold out commercial arrangements, perhaps as a lure to us; perhaps, however, she might then, and may now really set a value on commercial arrangements with us, and may receive them as a consideration for accommodating us in the navigation; or may wish for them, to have the appearance of receiving a consideration. Commercial arrangements, if acceptable in themselves, will not be less so if coupled with those relating to navigation and boundary. We have only to take care that they be acceptable in themselves.

There are two principles which may be proposed as the basis of a commercial treaty: 1. That of exchanging the privileges of *native citizens*; or 2. Those of the most favoured nation.

1. With the nations holding important possessions in America, we are ready to exchange the rights of native citizens, provided they be extended through the whole possessions of both parties. But the propositions of Spain, made on the former occasion, (a copy of which accompanies this) were, that we should give their merchants, vessels, and productions, the privilege of native merchants, vessels, and productions, through the whole of our possessions; and they give the same to ours only in Spain and the Canaries. This is inadmissible, because unequal; and as we believe Spain is not ripe for an equal exchange on this basis, we avoid proposing it.

2. Though treaties which merely exchange the rights of the most favoured nations are not without all inconvenience, yet they have their conveniences also. It is an important one that they leave each party free to make what internal regulations they please, and to give what preferences they find expedient to native merchants, vessels, and productions. And as we already have treaties on this basis

with France, Holland, Sweden, and Prussia, the two former of which are perpetual, it will be but small additional embarrassment to extend it to Spain. On the contrary, we are sensible it is right to place that nation on the most favoured footing, whether we have a treaty with them or not, and it can do us no harm to secure by treaty a reciprocation of the right.

Of the four treaties before mentioned, either the French or the Prussian might be taken as a model. But it would be useless to propose the Prussian, because we have already supposed that Spain would never consent to those articles which give to each party access to all the dominions of the other ; and without this equivalent, we would not agree to tie our own hands so materially in war as would be done by the 23d article, which renounces the right of fitting out privateers, or of capturing merchant vessels. The French treaty therefore is proposed as the model. In this, however, the following changes are to be made.

We should be admitted to all the dominions of Spain, to which any other foreign nation is or may be admitted.

Article 5, being an exemption from a particular duty in France, will of course be omitted as inapplicable to Spain.

Article 8. To be omitted as unnecessary with Morocco, and inefficacious and little honourable with any of the Barbary powers. But it may furnish occasion to sound Spain on the project of a convention of the powers at war with the Barbary states to keep up, by rotation, a constant cruise of a given force on their coasts, till they shall be compelled to renounce for ever, and against all nations, their predatory practices. Perhaps the infidelities of the Algerines to their treaty of peace with Spain, though the latter does not choose to break openly, may induce her to subsidize us to cruise against them with a given force.

Article 9 and 10, concerning fisheries, to be omitted as inapplicable.

Article 11. The first paragraph of this article, respecting the Droit d'Aubaine, to be omitted ; that law being supposed peculiar to France.

Article 17, giving asylum in the ports of either to the armed vessels of the other, with the prizes taken from the enemies of that other, must be qualified as it is in the 19th article of the Prussian treaty ; as the stipulation in the latter part of the article, " that no shelter or refuge shall be given in the ports of the one to such as shall have made prize on the subjects of the other of the parties," would forbid us, in

case of a war between France and Spain, to give shelter in our ports to prizes made by the latter on the former, while the first part of the article would oblige us to shelter those made by the former on the latter; a very dangerous covenant, and which ought never to be repeated in any other instance.

Article 29. Consuls should be received in all the ports at which the vessels of either party may be received.

Article 30, concerning free ports in Europe and America. Free ports in the Spanish possessions in America, and particularly at the Havanna, San Domingo, in the island of that name, and St. John of Porto Rico, are more to be desired than expected. It can therefore only be recommended to the best endeavours of the commissioners to obtain them. It will be something to obtain for our vessels, flour, &c. admission to those ports during their pleasure. In like manner if they could be prevailed on to re-establish our right of cutting log-wood in the bay of Campeachy, on the footing on which it stood before the treaty of 1763, it would be desirable, and not endanger to us any contest with the English, who, by the revolution treaty, are restrained to the south eastern parts of Yucatan.

Article 31. The *act* of ratification on our part may require a twelve month from the date of the treaty, as the Senate meets regularly but once a year; and to return it to Madrid for exchange may require four months more. It would be better, indeed, if Spain would send her ratification to be exchanged by her representative here.

The treaty must not exceed 12 or 15 years duration, except the clauses relating to boundary and the navigation of the Mississippi, which must be perpetual and final. Indeed these two subjects had better be in a separate instrument.

There might have been mentioned a third species of arrangement, that of making special agreements on every special subject of commerce, and of settling a tariff of duty to be paid on each side on every particular article; but this would require in our commissioners a very minute knowledge of our commerce. It is impossible to foresee every proposition of this kind which might be brought into discussion, and to prepare them for it by information and instruction from hence. Our commerce, too, is as yet rather in a course of experiment, and the channels in which it will flow are not sufficiently known to enable us to provide for it by special agreement. Nor have the exigences of our new government as yet so far developed themselves, as

that we can know to what degree we may or must have recourse to commerce for the purposes of revenue. No common consideration, therefore, ought to induce us as yet to arrangements of this kind. Perhaps nothing should do it with any nation short of the privileges of natives in all their possessions foreign and domestick.

It were to be wished, indeed, that some positively favourable stipulations respecting our grain, flour, and fish, could be obtained, even on our giving reciprocal advantages to some other commodities of Spain; say her wines and brandies.

But 1st. If we quit the ground of the *most favoured nation* as to certain articles for our convenience, Spain may insist on doing the same for other articles of her convenience, and thus our commissioners will get themselves on the ground of a treaty of *detail*, for which they will not be prepared.

2d. If we grant favour to the wines and brandies of Spain, then Portugal and France will demand the same; and in order to create an equivalent, Portugal may lay a duty on our fish and grain, and France a prohibition on our whale oils, the removal of which will be proposed as an equivalent.

Thus much, however, as to grain and flour, may be attempted. There has not long since been a considerable duty laid on them in Spain. This was while a treaty on the subject of commerce was pending between us and Spain, as that court considers the matter. It is not generally thought right to change the state of things pending a treaty concerning them. On this consideration, and on the motive of cultivating our friendship, perhaps the commissioners may induce them to restore this commodity to the footing on which it was on opening the conferences with Mr. Gardoqui on the 26th day of July, 1785. If Spain says, "do the same by your tonnage on our vessels;" the answer may be, that our foreign tonnage affects Spain very little, and other nations very much: whereas the duty on flour in Spain affects us very much, and other nations very little. Consequently, there would be no equality in reciprocal relinquishment, as there had been none in the reciprocal innovation; and Spain, by insisting on this, would in fact only be aiding the interests of her rival nations, to whom we should be forced to extend the same indulgence. At the time of opening the conferences, too, we had as yet not erected any system; our government itself being not yet erected. Innovation then was unavoidable on our part, if it be innovation to establish a system. We did it on fair and general ground; on ground favourable

to Spain. But they had a system, and therefore innovation was avoidable on their part.

It is known to the commissioners that we found it expedient to ask the interposition of France lately to bring on this settlement of our boundary and the navigation of the Mississippi. How far that interposition has contributed to produce it is uncertain. But we have reason to believe that her further interference would not produce an agreeable effect on Spain. The commissioners, therefore, are to avoid all further communications on the subject with the ministers of France, giving to them such explanations as may preserve their good dispositions. But if ultimately they shall find themselves unable to bring Spain to agreement on the subject of navigation and boundary, the interposition of France as a mutual friend, and the guaranty of our limits, is then to be asked, in whatever light Spain may choose to consider it.

Should the negotiations on the subject of navigation and boundary assume at any time an unhopeful aspect, it may be proper that Spain should be given to understand, that if they are discontinued without coming to any agreement, the government of the United States cannot be responsible for the longer forbearance of their western inhabitants. At the same time the abandonment of the negotiation should be so managed as that, without engaging us to a further suspension of the exercise of our rights, we may not be committed to resume them in the instant. The present turbid situation of Europe cannot leave us long without a safe occasion of resuming our territory and navigation, and of carving for ourselves those conveniences on the shores which may facilitate and protect the latter effectually and permanently.

We had a right to expect that, pending a negotiation, all things would have remained in statu quo, and that Spain would not have proceeded to possess herself of other parts of our territory. But she has lately taken and fortified a new post on the Walnut-hills, above the mouth of the Yazoo river, and far above the 31st degree. This garrison ought to have been instantly dislodged but for our wish to be in friendship with Spain, and our confidence in her assurances "to abide by the limits established in our treaty with England." Complaints of this unfriendly and uncandid procedure may be brought forward, or not, as the commissioner shall see expedient.

TH: JEFFERSON.

March 18, 1792.

*Philadelphia, March 23, 1792.*

GENTLEMEN,—I have the honour to inform you that a commission has been issued to Mr. Carmichael and Mr. Short, as commissioners plenipotentiary for the United States, to confer, treat and negotiate with any person or persons duly authorized by his catholick majesty, of and concerning the navigation of the river Mississippi, and such other matters relative to the confines of their territories and the intercourse to be had thereon, as the mutual interests and general harmony of neighbouring and friendly nations require should be precisely adjusted and regulated; and of and concerning the general commerce between the United States and the kingdoms and dominions of his catholick majesty: and to conclude and sign a treaty or treaties, convention or conventions thereon, saving as usual the right of ratification; which commission is already on its way to Mr. Short, whom it will find at the Hague, and who is desired immediately to proceed to Madrid. I expect his route will be by Bordeaux, and thence across the Pyrenees by the usual road. Might I hope your application to your court to send a passport and proper orders to their officers, where he must first enter the kingdom, to protect his passage into and through the kingdom, in order to prevent the loss of time which would be incurred by his waiting there till he could ask and receive a passport from Madrid?

With the sincerest wishes that the matters not yet settled between the two countries may be so adjusted as to give a free course to that conduct on both sides which an unity of interest evidently prescribes, and with sentiments of perfect esteem and respect for yourselves, I have the honour, &c.

TH: JEFFERSON.

Messrs. de Viar and de Jaudenes.

*Philadelphia, April 24, 1792.*

GENTLEMEN,—My letter of March 18 conveyed to you full powers for treating with Spain on the subjects therein expressed. Since that, our attention has been drawn to the case of fugitive debtors and criminals, whereon it is always well that coterminous states should understand one another as far as their ideas on the rightful powers of government can be made to go together: where they separate, the cases may be left unprovided for. The enclosed paper, approved by the President, will explain to you how far we can go in

an agreement with Spain for her territories bordering on us; and the plan of a convention is there stated. You are desired to propose the matter to that court, and establish with them so much of it as they approve; filling up the blank for the manner of the demand by us, and a compliance by them, in such way as their laws and the organization of their government may require. But recollect that they bound on us between two and three thousand miles, and consequently that they should authorize a delivery by some description of officers to be found on every inhabited part of their border. We have thought it best to agree specially the manner of proceeding in our country on a demand of theirs, because the convention will in that way execute itself without the necessity of a new law for the purpose. Your general powers being comprehensive enough to take in this subject, no new ones are issued. I have the honour to be, &c.

TH: JEFFERSON.

Messrs. Carmichael and Short, Esqrs.

*Project of a Convention with the Spanish Provinces.*

ANY person having committed murder, of malice prepense, not of the nature of treason, within the United States or the Spanish provinces adjoining thereto, and fleeing from the justice of the country, shall be delivered up by the government where he shall be found to that from which he fled, whenever demanded by the same.

The manner of the demand by the Spanish government, and of the compliance by that of the United States, shall be as follows: The person authorized by the Spanish government where the murder was committed, to pursue the fugitive, may apply to any justice of the supreme court of the United States, or to the district judge of the place where the fugitive is, exhibiting proof on oath that a murder has been committed by the said fugitive within the said government; who shall thereon issue his warrant to the marshal or deputy marshal of the same place to arrest the fugitive, and have him before the said district judge; or the said pursuer may apply to such marshal or deputy marshal directly, who, on exhibition of proof as aforesaid, shall thereupon arrest the fugitive and carry him before the said district judge; and when before him, in either way, he shall within not less than days, nor more than hold a special court of inquiry, causing a grand jury to be summoned thereto, and charging them to inquire whether the fugitive had committed a mur-

der, not of the nature of treason, within the province demanding him; and on their finding a true bill, the judge shall order the officer in whose custody the fugitive is to deliver him to the person authorized as aforesaid to receive him; and shall give such further authorities to aid the said person in safe keeping and conveying the said fugitive to the limits of the United States as shall be necessary and within his powers: and his powers shall expressly extend to command the aid of a posse of every district through which the said fugitive is to be carried. And the said justices, judges, and other officers shall use in the premises the same process and proceedings, mutatis mutandis, and govern themselves by the same principles and rules of law as in cases of murder committed on the high seas.

And the manner of demand by the United States, and compliance by the Spanish government, shall be as follows: The person authorized by a justice of the supreme court of the United States, or by the district judge where the murder was committed, to pursue the fugitive, may apply to

Evidence on oath, though written and ex parte, shall have the same weight with the judge and grand jury in the preceding cases, as if the same had been given before them orally, and in presence of the prisoner.

The courts of justice of the United States and provinces shall be reciprocally open for the demand and recovery of debts due to any person inhabiting the one, from any person fled from and found in the other, in like manner as they are open to their own citizens: likewise for the recovery of the property, or the value thereof, carried away from any person inhabiting the one by any person fled from and found in the other; which carrying away shall give a right of civil action, whether the fugitive came to the original possession lawfully or unlawfully, even feloniously; likewise for the recovery of damages sustained by any forgery committed by such fugitive. And the same provision shall hold in favour of the representatives of the original creditor or sufferer, and against the representatives of the original debtor, carrier away, or forger. Also in favour of either government, or of corporations, as of natural persons; but in no case shall the person of the defendant be imprisoned for the debt, though the process, whether original, mesne, or final, be, for the form sake, directed against his person. If the time between the flight and the commencement of the action exceed not        years, it shall be counted but as one day under any act of limitations.

This convention shall continue in force                      years from the exchange of ratifications, and shall not extend to any thing happening previous to such exchange.

*Heads of Consideration on the Establishment of Conventions between the United States and their Neighbours, for the mutual Delivery of Fugitives from Justice.*

HAS a nation a right to punish a person who has not offended itself? Writers on the law of nature agree that it has not. That, on the contrary, exiles and fugitives are to them as other strangers; and have a right of residence, unless their presence would be noxious, e. g. infectious persons. One writer extends the exception to atrocious criminals too imminently dangerous to society, namely, to pirates, murderers, and incendiaries. Vattel, L. 1. § 233.

The punishment of piracy being provided for by our laws, need not be so by convention.

Murder. Agreed that this is one of the extreme crimes, justifying a denial of habitation, arrest, and redelivery. It should be carefully restrained by definition to homicide of malice prepense, and not of the nature of treason.

Incendiaries, or those guilty of arson. This crime is so rare as not to call for extraordinary provision by a convention.

The only rightful subject then of arrest and delivery for which we have need, is murder.

Ought we to wish to strain the natural right of arresting and redelivering fugitives to other cases? The punishment of all real crimes is certainly desirable as a security to society. The security is greater in proportion as the chances of avoiding punishment are less. But does the fugitive from his country avoid punishment? He incurs exile, not voluntary, but under a moral necessity as strong as physical. Exile, in some countries, has been the highest punishment allowed by the laws. To most minds it is next to death: to many beyond it. The fugitive indeed is not of the latter: he must estimate it somewhat less than death. It may be said, that to some, as foreigners, it is no punishment. Answer. These cases are few. Laws are to be made for the mass of cases.

The object of a convention then, in other cases would be, that the fugitive might not avoid the difference between exile, and the legal punishment of the case. Now in what cases

would this difference be so important as to overweigh even the single inconvenience of multiplying compacts?

1st. Treason. This, when real, merits the highest punishment. But most codes extend their definitions of treason to acts not really against one's country. They do not distinguish between acts against the government, and acts against the oppressions of the government. The latter are virtues: yet have furnished more victims to the executioner than the former: because real treasons are rare; oppressions, frequent. The unsuccessful strugglers against tyranny, have been the chief martyrs of treason laws in all countries. Reformation of government with our neighbours, is as much wanting now, as reformation of religion is or ever was any where. We should not wish then to give up to the executioner the patriot who fails and flees to us. Treasons, then, taking the simulated with the real, are sufficiently punished by exile.

2d. Crimes against property. The punishment, in most countries, immensely disproportionate to the crime. In England, and probably in Canada, to steal a hare is death the first offence; to steal above the value of 12*d.* death the second offence. All excess of punishment is a crime; to remit a fugitive to excessive punishment is to be accessory to the crime. Ought we to wish for the obligation or the right to do it? Better, on the whole, to consider these crimes as sufficiently punished by the exile.

There is one crime, however, against property, pressed by its consequences into more particular notice, to wit: Forgery; whether of coin, or paper; and whether paper of publick or private obligation. But the fugitive for forgery is punished by exile, and confiscation of the property he leaves: to which add, by convention, a civil action against the property he carries or acquires, to the amount of the special damage done by his forgery.

The carrying away of the property of another may also be reasonably made to found a civil action.

A convention then may include forgery, and the carrying away the property of others, under the head of

3d. Flight from debts. To remit the fugitive in this case, would be to remit him in every case; for in the present state of things, it is next to impossible not to owe something. But I see neither injustice nor inconvenience in permitting the fugitive to be sued in our courts. The laws of some countries punishing the unfortunate debtor by perpetual imprisonment, he is right to liberate himself by flight; and it would be

wrong to re-imprison him in the country to which he flies. Let all process, therefore, be confined to his property.

Murder, not amounting to treason, being the only case in which the fugitive is to be delivered. On what evidence, and by whom shall he be delivered? In this country, let any justice of the supreme court of the United States, or their judge of the district where the fugitive is found, use the same proceedings as for a murder committed on the high seas, until the finding of the 'true bill' by the grand jury; but evidence on oath from the country demanding him, though in writing and ex parte, should have the same effect, if delivered orally at the examination. A true bill being found by the grand jury, let the officer in whose custody the fugitive is, deliver him to the person charged to demand and receive him.

In the British provinces, adjoining us, the same proceedings will do.

In the Spanish provinces, a proceeding adapted to the course of their laws should be agreed on.

March 22, 1792.

TH: JEFFERSON.

*Philadelphia, May 17, 1792.*

GENTLEMEN,—We lately received from Mr. Seagrove, our Indian agent for the southern department, a letter of which the enclosed is an extract, whereby it appeared that a party of the Creek Indians, under the influence of the adventurer Bowles, had meditated some depredations on the Spanish settlements, from which they had been diverted by a friend of our agent, but that their disposition to do injury was perhaps not quite extinguished. Sensible, how much it is in the power of neighbouring nations to contribute to mutual happiness and prosperity by faithfully using their good offices wherever they may procure the peace and advantage of each other, and feeling a union of interest with Spain in whatever regards her adjacent possessions, we have not hesitated to give general instructions to our agent in that department to cultivate in the Indians the same friendly dispositions towards the Spanish settlements, as towards ourselves, and to promote their peace and interest in every case with the same zeal as our own.

I have the honour to enclose you one of those orders, to congratulate you on the intelligence that the leader who gave occasion to this particular interposition is no longer in a situation to threaten further danger, and to assure you;

that, as far as shall depend on us, we will on every future occasion use what influence we may have with the Indians to discountenance and prevent every measure they may meditate against the peace or prosperity of your subjects.

I have the honour to be, &c. TH: JEFFERSON.  
Messrs. de Viar and de Jaudenes.

*To William Carmichael and William Short, Esquires. Philadelphia, Nov. 3, 1792.*

GENTLEMEN,—I wrote you on the 14th of the last month, since which, some other incidents and documents have occurred bearing relation to the subject of that letter. I therefore now enclose you a duplicate of that letter.

Copy of a letter from the governour of Georgia, with the deposition it covered of a Mr. Hull, and an original passport signed by Olivier, wherein he styles himself commissary for his catholick majesty with the Creeks.

Copy of a letter from Messrs. Viar and Jaudenes to myself, dated October 29, with that of the extract of a letter of September 24, from the Baron Carondelet to them.

Copy of my answer, of November 1, to them; and

Copy of a letter from myself to the President, stating a conversation with those gentlemen.

From these papers you will find we have been constantly endeavouring by every possible means to keep peace with the Creeks; that in order to do this we have even suspended and still suspend the running a fair boundary between them and us as agreed to by themselves, and having for object the precise definition of their and our lands, so as to prevent encroachment on either side; and that we have constantly endeavoured to keep them at peace with the Spanish settlements also; that Spain, on the contrary, or at least the officers of her governments, since the arrival of the Baron de Carondelet, has undertaken to keep an agent among the Creeks, has excited them, and the other southern Indians, to commence a war against us, has furnished them with arms and ammunition for the express purpose of carrying on that war, and prevented the Creeks from running the boundary which would have removed the source of difficulty from between us. Messrs. Viar and Jaudenes explain the ground of interference on the fact of the Spanish claim to that territory, and on an article in our treaty with the Creeks putting themselves under our protection. But besides that you already know the nullity of their pretended claim to the

territory, they had themselves set the example of endeavouring to strengthen that claim by the treaty mentioned in the letter of the Baron de Carondelet, and by the employment of an agent among them. The establishment of our boundary committed to you will of course remove the grounds of all future pretence to interfere with the Indians *within our territory*; and it was to such only that the treaty of New York stipulated protection; for we take for granted that Spain will be ready to agree to the principle, that neither party has a right to stipulate protection or interference with the Indian nations inhabiting the territory of the other. But it is extremely material, also, with sincerity and good faith to patronize the peace of each other with the neighbouring savages. We are quite disposed to believe that the late wicked excitements to war have proceeded from the Baron de Carondelet himself, without authority from his court. But if so, have we not reason to expect the removal of such an officer from our neighbourhood, as an evidence of the disavowal of his proceedings. He has produced against us a serious war. He says, indeed, in his letter, that he has suspended it; but this he has not done, nor possibly can he do it. The Indians are more easily engaged in a war than withdrawn from it. They have made the attack in force on our frontiers, whether with or without his consent, and will oblige us to a severe punishment of their aggression. We trust that you will be able to settle principles of friendly concert between us and Spain with respect to the neighbouring Indians; and if not, that you will endeavour to apprize us of what we may expect, that we may no longer be tied up by principles which, in that case, would be inconsistent with duty and self preservation. I have the honour to be, &c.

TH: JEFFERSON.

DUPLICATE.

*Aranjuez, April 18, 1793.*

SIR,—When we had last the honour of addressing you, we mentioned the delay which had taken place with respect to the business with which we are charged here. We then hoped that delay had ceased, as we were just informed that his majesty had designated the person to treat with us on his behalf. We have found ourselves, however, much mistaken in our hope.

As soon as it was announced to us that M. de Gardoqui was the person, we waited on him and expressed to him our

satisfaction that his majesty's choice had fallen on a person so well acquainted with the subjects of which we were to treat, and also with the dispositions of the United States, and their desire to cultivate the friendship of his catholick majesty. He showed evident marks of being pleased with this nomination, and gave us the strongest assurances of his desire that a business so long depending should be brought to a conclusion agreeable to both parties. He added, that he hoped that the negotiation would be carried on in the same familiar and friendly manner to which he had been accustomed in America; and other things of the sort which are always used, more or less, on such occasions, according to the humour of the person, and which prove nothing as to the main object. After waiting a few days in the expectation of his announcing to us officially his nomination, and fixing the time and manner of proceeding to the conferences, we learned from him that he was delayed by his powers and instructions not having been made out, which, being to be done in another department, was not under his control. At length we wrote him a letter on the 24th of February, having concerted it with him, expressive of our desire to proceed to a communication of our respective full powers. This he desired, that he might have an opportunity of pressing the foreign department.

From that time we continued seeing him very frequently, always expressing our desire to proceed to business, and receiving assurances from him of his reciprocating it fully; of his having done every thing to hasten the making out of his powers and instructions; of his receiving daily promises that it should be done; and of his waiting for nothing else. In this manner things passed, delayed from day to day until the 23d of March, when we had our first conference. We have now had three meetings on three successive Saturdays, the ministerial occupations of M. de Gardoqui not allowing him to have them more than once a week, and not always so often; as that which was to have taken place on the last Saturday was postponed by him.

Although such conferences are mere conversations, in order that the two parties may settle as many previous points as possible, and find out what will be the best mode of discussing between them such as present the greatest difficulty, yet we think it proper to give you a general idea of what has passed in those which have already taken place, as they have discovered a disposition in this court very different from what we imagine was expected in Ame-

rica at the time of our commission being formed. We begun, after having communicated the originals of our respective full powers, and interchanged copies of them, by mentioning, that although they embraced a variety of objects of mutual concern to the two countries, we would confine ourselves, in the first instance, to the two leading ones, namely, the navigation of the Mississippi, and the territorial limits. We stated these points, and supported them by the arguments which are contained in your report to the President; considering always the *right* to the former as unquestionable, and of course the *means of exercising it* as the only object of negotiation. M. de Gardoqui discovered evident signs of impatience under this statement, and much surprise, either real or feigned, at it. He assured us that no consideration whatever would ever induce his majesty to acknowledge a right in us to this navigation; and he seemed to consider our claim to the limits under the treaty with England as extravagant and unwarrantable; regarding this treaty as an agreement made between two people to dispose of the property of a third. You will see lower down his ideas as to the acquisition of this property by Spain. We observed to him, on what he said was the determination of his majesty as to the navigation, that we knew not how to suppose that his majesty, so conspicuously remarkable among the sovereigns of Europe for his love of justice, would refuse to acknowledge a right, as soon as that right should be exhibited to his view established by proofs as unquestionable as those of a geometrical truth, and founded equally on what all men hold sacred, both natural and conventional law. As to the former, he held the very extraordinary doctrine, for a diplomatic negotiator, of its deserving no attention, having never yet bound any power further than suited their convenience: as to the latter, he considered the treaties as not giving us a right, or at least as not being obligatory on Spain, in the instance where she was not a party. You will easily suppose that such opinions were not attempted to be supported by argument. The most general and desultory assertions only were brought forward: Such as that the king would never hear of the treaty made between us and England to dispose of what belonged to him; that we had no right to navigate any where in the Mississippi but on our own shore; that he would never consent to advise his majesty to acknowledge our right to navigate it through its extent, &c. &c. He would hardly agree that the exclusive right of Spain to this navigation had any

beginning, and could not be brought to say precisely at what time the exclusive right did commence, or how. Indeed it really appeared a point about which he was uncertain at that moment.

He was less scrupulous in affirming the origin of Spain to the territory within our limits. He stated it to be by conquest during the late war. On its being observed to him that by the usages of nations hitherto respected, conquests could give only an inchoate right in any case, and that its accomplishment depended on treaty; and that the treaty so far from comprehending did expressly exclude the conquest now contended for; and that Spain, not being at war with us, no right of any kind could be claimed against us; the doctrine was neither acknowledged nor denied, though there appeared an evident ignorance of it. It was replied to by sometimes pretending that all that was now claimed by Spain, was comprehended in the cession by England of the Floridas, (their previous treaty with us being considered as null and void) and sometimes by positions which would lead to a very new and unexpected system: that Spain, until she had acknowledged our independence, had a right to make conquests within our limits. This was laid down as the great difference between the rights of Spain and of France derivable from the successes of their arms within any part of the United States. It was acknowledged that France, for instance, had no right to Yorktown; but given clearly to be understood that if the Spanish forces had taken possession of Charleston, or any other place, the case as to Spain would have been different. We could only observe thereon that we did suppose that Spain would be the last power to set on foot seriously such an unlimited system of conquest, as being certainly at least as dangerous for her as any other. And indeed we are persuaded that the length to which this doctrine was carried was more the result of the heat of conversation, than of cool reflection. When it was observed to him that this court had formerly entertained different ideas with respect to the limits, as was demonstrable from what had passed between the count de Florida Blanca and M. de la Fayette, he treated that subject in the most contemptuous manner, adding that he had written to the count on it from America, who had affirmed it to be the grossest misrepresentation on the part of M. de la Fayette. We observed to him that the letters which had passed between them on that subject being in their office of foreign affairs, would show how far this had been a mis-

representation, and that we must refer him to them. It would have been evidently useless to have pressed this subject any further at that time. Had count de Florida Blanca been still more explicit on this head, still it would probably have no weight with the present ministry. It could only serve to give additional force to argument hereafter, and show in a clearer view the injustice of the present system of this court as to that question.

M. de Gardoqui afterwards went into some detail of the manner in which this subject had been conducted with respect to him whilst employed therein in America. He complained in more clear terms of the delay which had been made use of, and which he had mentioned to us previously, whenever we had pressed him, and taken notice of the delay here. We observed to him that the expiring stages of a government, and the transition from one form to another, would unavoidably have produced that delay. To this he replied, that he had remained a long time after the establishment of a new government, and that he should have remained still longer to have continued the negotiation, if he had not acquired full proof that the system had been adopted on the part of the United States of taking no other step then, and of leaving the subject to time. He proceeded in telling us that he and Mr. Jay had for a long time meditated on the difficulties which presented themselves; that they both had been as desirous as any persons could be expected to be in future of removing them, and that he thought they had by sacrifices on both sides succeeded as far as could be done. He said they had agreed on the basis of the treaty between themselves, but that Mr. Jay choosing to take the opinion of Congress on some parts of it, (those with respect to the navigation and limits) had consulted them thereon, and was to have given him their answer. That he, on his part, had announced this to his court, who had from that time been expecting in vain the answer. He gave us to understand that he expected we should be charged with this answer. He endeavoured to give us from recollection the substance of what had been agreed on between him and Mr. Jay. It was as follows:

*Commerce.* Conformable to the articles annexed to his letter to Mr. Jay, of the 25th of May, 1786, which you forwarded to us. He stated them as the propositions of Mr. Jay, to which he had assented.

*Limits.* To begin some where about the mouth of the Yazoo; from thence a straight line in that parallel to the

Apalachicola; from thence towards the St. Mary's river, by a line about the direction of which he seemed uncertain; and down that river to the ocean.

*Navigation of the Mississippi.* To be used in the following manner. Our citizens to carry their productions in their own vessels to the limits agreed on, where magazines should be constructed; from thence they should be taken by Spanish boats and carried to New Orleans. If there should not be Spanish boats enough for that purpose, (although he was convinced there would be) then he thought the American boats passing on to New Orleans would be connived at. Whether our vessels were to be allowed to come from the sea to receive these productions at New Orleans, was to be the subject of further negotiation, as well as the toll to be paid; and all this they could not consent to insert in a publick treaty, lest other nations should claim a like admission into the colonial possession, and was therefore to have been a private article. He took the precaution of adding, that no answer having been given by Congress, on Mr. Jay's reference to them, no decision therefore had been taken thereon by his court; and of course he could not pretend to say that his majesty would consent to these conditions at present, although he would have done it formerly. He was assured that no decision on such articles would ever be asked from him by us. Nothing respecting such having been communicated to us by you, was a convincing proof that government had considered them not capable of being deliberated on.

In the course of these conferences he had mentioned that the limits and navigation were objects of much less importance than we appeared to make them, both Spain and the United States having much more territory than they knew what to do with; and the use of the river against stream being impracticable, even if allowed by Spain. We observed thereon that taking these positions for granted, he must agree that the king of Spain was much more the uncontrolled arbiter of limits, and much less obliged to consult the prejudices (as he seemed to consider them) of the inhabitants, than was the government of the United States; that moreover by our constitution the limits of each state were guaranteed to them, and therefore not under the control of the general government; that as to the navigation, if impracticable, it would not be exercised, and consequently that Spain should have no objection to recognise our right thereto; and that not doing it, under that view of the subject,

showed that much less importance was annexed to the friendship of the United States than we had hoped.

It was replied to this, that the admission of foreigners to any of the Spanish colonial possessions was an innovation; and that government was much more averse to the smallest innovation in any of the colonial regulations than in those at home (the exception in favour of French vessels for a limited time being a case of necessity, which of course did not admit of being taken as a general rule;) and further, that although it was evident the current of the river would not admit of its being ascended for the purpose of commerce, yet it facilitated the descent; and that European manufactures carried through the United States into the western country would be brought down the river and smuggled into their possessions, if our vessels were allowed to go there. He also seemed to fear much the propagation of principles of independence among them by communication with our citizens. We obviated both objections, as we thought, and showed that the United States would have an interest to see the Spanish possessions dependent on Spain, if they enjoyed all they claimed, which was the navigation of the river. He said this would be the case if men were reasonable enough to follow what was their interest; but that there were so many instances to the contrary (he cited the attempts of France to propagate their own principles as a living instance,) that such considerations were little to be relied on. The conduct of their agents in America with respect to us, in at least exciting the animosity of the Indians towards us, was incidentally touched on. It was roundly denied, and affirmed on the contrary, that their standing instructions were directly opposed thereto. We told him the United States had no doubt of the disposition of his majesty on such subjects, and of course were persuaded that the conduct of those agents was not warranted thereby; but that the proofs of their conduct were established on the strongest testimony. It was evident, however, that it did not appear so to him. We shall have occasion necessarily to bring forward this subject in more serious terms, and accordingly it was not pushed further at that time.

M. de Gardoqui deviated from it to complain, in very bitter terms, of the manner in which the Spanish navigation and commerce had been treated by the regulations of the United States. He said that the few vessels of this country which were formerly employed were completely expelled from thence. When we observed to him that whatever regulations had been made were common to all foreign countries, and that

Spain, though without a treaty, was treated as the most favoured nation there, he insisted that whatever might be the appearance, the effect was not so, since as the Spanish commissaries had informed them their vessels had ceased going to the ports of the United States, whilst those of other nations went there. Spain, he observed, was a country *sui generis*, as to commerce; that there was no reciprocity in the treatment respectively of Spanish subjects and American citizens in America and Spain. He advanced, that Spain had no need of the United States; whereas the United States, having no mines of gold and silver, could not do without Spain in order to procure these indispensable articles. However absurd this may appear, or whatever ignorance it may betray of the true principles of political economy, yet we are persuaded that they are his real sentiments. It would have been lost labour to have combated rooted prejudices of that kind by serious argument; we only replied to them therefore by observing, that as long as food should continue to be an indispensable ingredient in the wants of men, we trusted that corn fields would be found to be the surest and most inexhaustible mines of gold and silver. We added, that we were persuaded, however, that nothing hostile had been intended against the commerce of Spain; and that he would find that the United States had the fullest disposition on the contrary to cultivate and increase the commercial relations of the two countries. He told us (which he seemed to desire we should consider as a proof of frankness) that he had advised his majesty, immediately on being informed of our regulations, to levy an additional duty on our fish and flour, as the best means of making us treat them differently. This additional duty was intended as an excess to be paid by us above other foreigners; and he informed us it was only delayed to take place with a general regulation of their commercial system which he was about forming. We doubt, however, whether what he told us of the additional duty has been hitherto seriously intended; although we cannot assure you, should the growing connections between this country and England be carried to the degree of which they seem susceptible under present circumstances, that this menace would not be realized in favour of the English fishery. From this general statement of what has hitherto passed here, you will see that their ideas at present, with respect to the two leading objects of our commission, are out of the circle of negotiation under the instructions we received from you. It was matter of embarrassment, therefore, to us not to have been informed what

overtures had been made from this court, and induced the President to send a commission for treating here, after Mr. Carmichael had informed you of their intention to send a minister for that purpose to America.

We found ourselves placed, therefore, under circumstances of much delicacy arising from the explicit declarations of M. de Gardoqui, and the present unsettled relation of this country with England. Had we insisted on the *sine quibus non* of your instructions as preliminaries, we should inevitably have been obliged to have broken off the conferences, which could not have been done without eclat, as an express commission had been sent here for the purpose of treating. It was evident this would have been playing into the hands of England by exciting alarm in this court with respect to us; we have therefore thought it our duty to temporize, and without giving any hope of our abandoning any part of our rights, we have proceeded to canvass the subjects of our commission in general, as has been stated to you. Under other circumstances we should have proceeded immediately to have supported them by the arguments which your report to the President furnishes, and which could have been opposed only by an open and manifest refusal of incontrovertible right, and of course exhibited to the view of all the world the justice of resorting to other means for obtaining it. At present we should unquestionably obtain nothing by urgency; and as we have full conviction that they would now refuse what we should insist on, we should not be the wiser for forcing them to express this determination by writing. We think it our duty, therefore, to give it as our opinion, that whatever preparatory steps would be taken by government in the case of this refusal of our right, should be taken under present circumstances, as we consider unquestionable the determination of this court to refuse it when pressed. Our intention is not to press this determination until we shall see with more certainty the influence of French affairs on them, and their connections with England, as great changes have taken place therein (since your instructions were given,) with which you will have been duly made acquainted. We flatter ourselves also with learning soon the further intentions of the President arising therefrom. Should the conferences in the mean time come to a close, we shall endeavour that it be without receiving such a refusal as it might be difficult for them to retract from hereafter. Nobody can say what changes may take place in the relations of European powers, nor in how short a time. We do not scruple, however, to say, that

until some considerable change shall take place from the present, and excite the alarm of this country with respect to England, they will not be induced by mere negotiation to yield our right. Such a position, however, we believe did exist at the time of the Nootka negotiation; and we think it probable that such will occur again. Whatever may occur, or whatever progress may be made in any direction, you may count on being informed of with as much expedition and punctuality as may depend on us. This would be done sooner and more regularly if we were not obliged to wait for such conveyances as it may be proper to make use of. This will be sent under cover to colonel Humphreys, by an express despatched from hence by the Portuguese ambassador.

We have the honour to be, &c. WM. CARMICHAEL,  
WM. SHORT.

The Secretary of State for the United States.

*Aranjuez, May 5, 1793.*

SIR,—Since our last of the 18th ultimo, we have had the honour of receiving the duplicate of yours of the 3d of November; (the original has not yet come to our hands.) The papers severally alluded to therein were received enclosed. Mr. Morris had forwarded them to us from Paris on the 4th of March. The person he had charged with them having determined not to proceed further than Bayonne, these papers were detained there for a proper conveyance, which, not presenting itself sooner, they were not delivered to us here until the 28th ultimo.

Our last letter, in informing you generally of the conferences which had then taken place here on the subjects of our commission, stated also the manner in which that of the conduct of their agents towards us and the Indians, had been particularly touched on. That conduct was absolutely denied in behalf of their agents, who it was affirmed had positive instructions to the contrary, and who could have no interest to depart from them. We observed on the facts which had taken place, and the nature of the testimony which had authenticated them to the government of the United States. M. de Gardoqui let us see clearly that he considered the presumed obedience of their agents to the orders given them as a stronger proof of their having not interfered, than any that was adduced by us to the contrary. He saw as clearly that we were of a different opinion. And, as we have had already the honour to inform you, we judged it unnecessary

to push the subject further in that stage of the business. Yesterday, being the first day of conference which has intervened since the receipt of your letter above mentioned, it was our intention to have brought it forward again, with the additional circumstances mentioned therein; but M. de Gardoqui being called off by the king at the hour appointed for the conference, it was postponed by him. In the two which have taken place since our last we spoke of the conduct which should be observed by the United States and Spain towards the several nations of Indians within or adjoining to their respective possessions. The sentiments which he expressed were perfectly conformable to humanity and good neighbourhood. He came readily into the idea suggested in your letter of October the 14th, of neither party keeping agents among the Indians. We thought it proper to sound him on this subject, although it appeared to us that a clause in our treaty with the Creeks was of a contrary tendency. He expressed his sincere desire that strict justice should in all cases be observed towards the Indians, as being the surest means of rendering them pacifick and useful neighbours. We assured him that our government was actuated by these sentiments, observing, the steps which had been taken since the reins were committed to the President were an uniform proof thereof, confirmed by the treaties made with the Creeks and Cherokees. This necessarily brought under consideration these treaties, which, to our very great surprise, he declared an entire ignorance of. Although they have certainly been transmitted to the foreign departments here, yet the several departments are kept so separate and distinct that we deem it highly possible, added to what we have seen of M. de Gardoqui himself, that they may not have come under his inspection. When we mentioned to him the substance of these treaties, he expressed much satisfaction at the articles securing the Indians in their rights of property, and fixing the mode of punishment for crimes committed towards them, as well as the encouragement to be held out to them to dispose them to agriculture and civilization. The clause declaring them under our protection he apprehended might create difficulty, as they had a previous treaty with Spain to the same effect. He seemed to wish us to believe that he considered the favourable disposition of our government towards the Indians as the most likely means to remove the difficulties existing with respect to the settlement of boundary. We are persuaded, however, that the same difficulties would still remain, and that they do not rest

on our treaties with the Indians, or our conduct towards them, but on the fixing the limits between us and Spain. Humanity and justice towards the Indians may be the pretended, but the acquisition of territory, the domineering though extravagant passion of this court, will be the real motive by which they will be actuated. Were it possible for us to agree upon the limits, no difficulties could be made by them with respect to the inhabitants within those assigned to us. We think you may rely, therefore, on their commissaries having seized the true principle of the interference of their court, in their conversation with you, as stated in your letter to the President of November 2. We mentioned in our last that M. de Gardoqui had declined absolutely precisising the origin of their claim to the exclusive navigation of the Mississippi. He has since then, by acknowledging in conversation that the English were entitled to navigate that river also previous to the late war, fixed the epocha of their exclusive right. Even this acknowledgment of what must strike every body as unquestionable, he was brought to with evident reluctance. In our last we had the honour of stating to you the embarrassment in which we found ourselves, and from the explicit declarations of M. de Gardoqui showing the dispositions of this court to be opposite to what we are convinced must have been expected at the time our commission was formed; and secondly from the change of circumstances which have taken place among several European powers since that epoch. As yet we can only confirm what we then said on these subjects. Situated as we are under these circumstances we conceive it will be the wish of the President that we should not at this moment press the negotiation in a manner which might produce an effect directly opposed to our interests and wishes, and which could not render any service under the present crisis, the most inauspicious that could have taken place for our business. We have already full conviction of the sentiments of this court, and know that they will not at present assent to what we must insist on. Should we immediately push the negotiation, it could produce no other effect than to make them acquainted with the fixed determination of the United States to exact their full right. This would unavoidably only make them more tractable with respect to England, and would tend, joined to the influence of the French war, to make them take a ground that they might repent of hereafter in vain, as well as ourselves. It might make them also take preparatory measures with respect to us which they

would not otherwise do, and which we must desire that they should not do, whatever may be the intentions of our government. Other considerations also weigh with us in favour of delay under our circumstances, and particularly that of leaving thereby time to receive further instructions. After the President shall have been made acquainted with the changes which have taken place in the relations between France, England, and this country, from what we conjecture of the time that this will have been announced to you as inevitable, we imagine we may ere long be made acquainted with the President's sentiments thereon. We will not take on ourselves to suggest any thing on a subject which will have been placed so amply under his contemplation. We should not perhaps omit mentioning a circumstance which is particularly unfavourable to our negotiation, arising from the actual situation of this cabinet, and the business we are charged with being in consequence thereof exclusively committed to M. de Gardoqui. As he is fully known in America, we need not delineate his character here. It will suffice to say, that notwithstanding his protestations of good will towards the United States, and desire to see this business terminated to their satisfaction, we have very full evidence of his sentiments being absolutely opposed thereto. As to those of the duke de la Alcu dia, whose power and influence are unlimited here, we can only judge of them from what M. de Gardoqui tells us, being precluded ourselves, by the character in which we are admitted here, from that kind of intercourse with him which would enable us to judge for ourselves. He assures us that the sentiments of that minister are conformable to those expressed to us in the conferences. We should rather apprehend, however, that he had not given himself the trouble to form any ideas on the subject. So far as M. de Gardoqui can have influence on him the impressions he will receive will certainly not be such as we should wish.

Being young and without experience, but at the same time well disposed to receive information, and having no other source so ready or so natural to receive it from as M. de Gardoqui, it is possible it is from him he will take his ideas thereon. He cannot have time, and certainly will not have inclination, under his present occupations, to attend to any course of argument on these subjects. He will ask only for the result, and that result he will receive implicitly from the person to whom he may give his confidence respecting it. It may be expected also that at this moment the English ambassador, in his close and constant communications with him,

will not let slip opportunities of giving such insinuations as he may think likely to produce effect. And when we consider the situation of the two countries, and compare the two men, we cannot doubt they may have a considerable effect. We do not let M. de Gardoqui perceive the idea we have formed of his hostility to the business of this negotiation. We receive with calmness the constant protestations of his particular good will, which he takes every opportunity of repeating. He assures us often that there is no person in Spain who would be disposed to go so far in advising the king to make sacrifices for the termination of this business as himself. These sacrifices consist in what we stated to you in our last, as the result of the agreement between him and Mr. Jay. These assurances, however, by no means convince us; and although we have no direct opportunities of ascertaining the ideas of the other ministers(should they have formed any) on the subjects of our negotiation, still it appears to us that there are several causes which would contribute to render M. de Gardoqui, on the contrary, more hostile than others. His ideas of the rights of Spain and of the United States were formed a long time ago, and, as too often happens, he was probably much influenced by the comparative power of the respective parties in considering their respective rights. The view he had of the United States during his residence there has manifestly not yet given place to those impressions which their present situation ought to have produced. He still sees them divided among themselves, and without efficient government; and although he now and then recollects the change, yet in general it seems to have escaped him. Having been formerly charged with this business, and having probably at that time given assurances to his court of being able to procure different terms, he may not know now how to come forward and propose others to them. This circumstance, added to a considerable obstinacy of character, we conceive would have much weight with him. It is possible, also, that being little accustomed to generalize his ideas, and having viewed the subject only on one side, and meditated on it in that-point of view alone, he may have brought himself to have regarded these extraordinary pretensions of Spain as just; and indeed he affirms this to us with so much warmth, that we cannot help attributing it in some degree to that kind of error. His having been educated, also, and still being in the mercantile line, is by no means an indifferent circumstance. That class of people in those European

countries which have colonies, being more than any other prompt to take the alarm at whatever may tend to facilitate the intercourse of foreigners with those possessions. Another source of error which we observe in M. de Gardoqui is, that of drawing general conclusions from particular cases. He conversed with some individuals in America who expressed their wishes to see the navigation of the Mississippi prohibited, and our limits narrowed, in order to have the productions of the western country brought through the Atlantick states, and to have our population more concentrated. He saw some individuals of the western country, or going to settle there, who treated their adhesion to the rest of the Union as visionary. From hence he has formed opinions, which he has not concealed from us, that the United States do not desire this navigation and the limits we ask, or at least do not desire it so generally as that they could be brought to make any general effort to obtain it. And also that the western inhabitants, whenever they shall acquire force, will separate from the Atlantick states. Under the influence of these opinions it is possible that the navigation may be held back *in petto*, in order to purchase this separation, if too long delayed, or to purchase the friendship of those inhabitants after being separated from us; and perhaps still further in order to purchase the promise of their allegiance to the crown of Spain. What we have said will give our idea of M. de Gardoqui's sentiments and influence on these subjects, so far as he may act of himself. We should add, however, that the general opinion of him here is, that no minister has ever given more constant proofs, (notwithstanding the natural obstinacy of his character) of facility in relinquishing his own sentiments in favour of those of persons at the fountain of power. Should the present principal minister, for instance, be by any means disposed to treat these subjects of negotiation differently, nobody entertains apprehension that M. de Gardoqui would make opposition thereto, after being made acquainted with that disposition. There is another event also which may take them out of the hands of M. de Gardoqui. It is known that he has no weight in the cabinet, and that he is counteracted in all his operations by the persons employed under him. It has therefore been for sometime believed that his place would not be long tenable. The exigencies of war naturally increase the difficulties of a minister of finance, and add to the probability of change in such a department. We have some reason to believe that M. de Gardoqui him-

self feels this, and that he is endeavouring to provide for a retreat by obtaining a foreign embassy. It has been reported that he is to have that at Turin. It is more probable, however, that it is not yet decided on : still the usage of this court with respect to dismissed ministers gives good reason to believe that he would be provided for. And as the diplomatic line is that which he desires, it would be probably in that. Should he be thus removed from hence, what we have observed with respect to the manner of doing business here gives reason to believe he would have little influence in that which concerns us. In speaking of M. de Gardoqui we should not omit the opinion which he seems to have imbibed, and still retains, with respect to the faculties of the United States in relation to foreign powers, either of injuring their enemies or aiding their friends. He did not conceal from us that he thought it impossible the northern, middle and southern states should ever be brought to act in concert with respect to a foreign enemy out of their territory ; and even if they should, that they had no means of acting efficaciously until they should have a marine ; an event which he regarded as never to take place, or at least to be so far off as not to be worthy of present consideration. These sentiments of M. de Gardoqui are probably consonant to those of his court. He seemed fully impressed with the danger to which Spain was exposed from the balance of maritime force being absolutely destroyed by the present situation of France. He acknowledged his apprehensions on that subject, and his desire to see a sufficient number of maritime powers united with Spain to restore that balance. It was evident, however, he did not count on this. He observed on the impossibility of several distant powers uniting their interests, and still more of their acting in concert. He did not deign to take the United States into this account, and on this subject he said he would quote to us an English proverb, "that whilst the grass was growing the horse would starve." All this served to confirm a truth, with which we were fully impressed before, that a few ships of the line would have more weight in securing peaceably the territorial rights of the United States and those with respect to the Mississippi, than all the most unanswerable arguments and incontestable proofs that could be adduced in support thereof.

We are much mortified not to be able to give you more agreeable intelligence with respect to the commission which the President has done us the honour to charge us jointly.

We trust you will see that this situation of the business has depended and still depends on circumstances which do not and never could have depended on us. And we hope you will be persuaded, that should the present crisis of European affairs bring about any change in the relations of this country which may render her less indifferent to the friendship or enmity of the United States, whilst we remain here, we shall make the most pressing use of it in endeavouring to obtain by pacifick means those rights which we are persuaded the United States will never abandon the pursuit of, and of which we flatter ourselves the progress of their union and force will enable them to obtain with usury if withheld at present.

We have the honour to be, &c. WM. CARMICHAEL,  
W. SHORT.

The Secretary of State of the }  
United States, Philadelphia. }

## TRANSLATION.

*Philadelphia, May 25, 1792.*

SIR,—We received with due respect your letter of the 21st instant, and have this new assurance of the sincere desires of the President of the United States to preserve the peace and harmony subsisting between Spain and the United States.

For the same reason which prevented your making any reflections on the treaties with the Creeks, Choctaws, and Chickasaws, we avoid at present transmitting you a voluminous relation well authenticated of the judicious and very opportune steps taken by the Baron Carondelet (whom you censure) after his arrival in Louisiana, to preserve peace and friendship between Spain and the United States and the Indian nations, without exposing the known interests of the last, which otherwise would probably be sacrificed.

Nevertheless we cannot avoid enclosing you a copy of the exhortations given by the same Baron Carondelet, to the chiefs of the Cherokee nation, which not only contradict the opinion formed in these States of his character, but manifest that he has used prudent reasons only, not proposing to require from the Indians a decisive answer whether they would take arms against the United States in case that Spain should enter into war against them, as governour Blount required from the various Indian chiefs, and particularly from Ugulayacabe, when, by dint of persuasions and offering him to establish a store near Bear Creek, and other promises, he made him go to Cumberland, where he asked

lands from him, and whether he would assist the Americans in case these should fight with Spain; and afterwards dismissed him for his obstinacy in refusing the lands and declaring that in such case he would remain neuter.

As little has the Baron de Carondelet created grand medal chiefs as governour Blount has practised; nor do we know if their have been distributed on our part to various chiefs medals of silver, as those which the United States have distributed with the effigy of the President, and at the bottom *George Washington, President, 1792*, and others with the legend *friendship and trade without end*.

In fine, as we rely that there will be established in the negotiation, now on foot between Spain and the United States, a fixed system of conduct with the Indians for both parties, we omit producing other different proofs which are in our possession in vindication of the government of New Orleans; and we flatter ourselves that your government will use the most convenient means to avoid taking measures with the various nations of Indians (pending the negotiation) which might have disagreeable results. We have the honour to be, &c.

JOSEPH IGNATIUS DE VIAR,

Mr. Jefferson.

JOSEPH DE JAUDENES.

*Translation of a Letter from Messrs. Viar and Jaudenes to T. Jefferson. Philadelphia, June 12, 1793.*

SIR,—Desiring to convince the President of the United States by proofs that there was no error (as you supposed in your favour of the 5th instant) in the information which had been given us relative to the last letter which we had the honour of writing to you, we transmit to you a literal copy of one of the patents given by governour Blount in the creation of great medals, (the original of which is in our hands, and may be exhibited here in this hotel of the king when you shall choose.)

We also copy literally for you the relation of the Indian chief Ugulayacabe, of what happened to him in his journey to Cumberland, and what obliged him to undertake it; and we can likewise assure that medals have fallen into the hands of the governour of New Orleans of the tenour which we mentioned to you in our former, distributed by Mr. Anthony Foster, James Randolph, and David Smith, commissioners, by the United States, to the Choctaws and Chickasaws, for the purpose; who, to attach more strongly various chiefs of the said nations gave them the said medals, notwithstanding

it must have been known to them that they had them from Spain ever since the year 1784.

We leave to the wise consideration of the President of the United States, after these and many other steps (which we do not mention at present) taken, some with the open authority of your government, and others perhaps without it, but still by its officers, the United States, can justify easily any complaints whatever which they may make against the governor of New Orleans, (which we doubt if founded but in presumption or suspicion) even should he have proceeded on the footing of reciprocity.

We do not pretend to impeach the character of governor Blount, nor would we produce evidence against him if we were not persuaded that since they declaim so bitterly in these states against the governor of New Orleans in words, it is very just that we should vindicate his proceedings, and show those of governor Blount and others, not only in words but palpable fact.

We duly note the other contents of your letter, and repeat assurances of the sincere esteem and respect, &c.

JAUDENES.

VIAR.

*Literal Copy of a Patent given by Governor Blount.*

1s. 6. William Blount, governor in and over the territory of the United States of America south of the river Ohio, and superintendent of Indian affairs for the southern district, to all who shall see these presents, greeting: Know ye, that in consideration of the proofs of fidelity and friendship which we have had of the Indian called Ittehonnastable of the Choc-taw nation, maintaining close union with the United States, of his valour and consequence with the neighbouring nations, and of his good disposition and knowledge to command, desiring to recommend such good qualities, I do appoint him chief and grand medal, admonishing him of the value he ought to put thereon, the obligation to govern his people well, and the respect he is to bear to the people of the United States, venerating the name of the President.

For these reasons we require all citizens of the United States to acknowledge him chief and grand medal as aforesaid; the same to the Indians of his nation, that they respect and obey him.

Given under my hand and seal in the said territory, this  
10th day of August, 1792.

WM. BLOUNT.

By the Governour.

DANIEL SMITH.

A Copy.

JAUDENES.

VIAR.

#### TRANSLATION.

*Jaudenes and Viar to the Secretary of State. Philadelphia, June  
18, 1793.*

SIR,—Since our last letter which we had the honour of sending you we are newly informed of different acts practised by governour Blount, which are not only contrary to the treaty itself which the United States concluded with the Creeks, and which your government wishes to maintain, but which manifest views very distinct from those pacifick and friendly ones towards our nation and those Indians of which the United States have so repeatedly assured us.

We will state some of the undeniable ones, and which merit great attention.

The 1st article of the treaty between the United States and the Creeks promises to maintain perpetual peace and friendship between both the contracting parties, and the 14th article promises to carry into full execution what is stipulated in the treaty by both parties with good faith and sincerity.

Permit us to ask, now, does it denote good faith or prove sincerity to incite the Chickasaws to commence war against the Creeks, with the palpable views that they, being less numerous than the Creeks, may be under the necessity to ask the protection of governour Blount and his troops, and to give him then a good occasion of asking in recompense from the Chickasaws lands to form an establishment at the place called the Ecores Amargas, (bitter) and have a source whence to incommode and intercept the communication between New Orleans and the establishments of Spain, at the Illinois and New Madrid, practised with barks, which, by the eddy formed there by the river Mississippi, must pass within pistol shot of a point which commands the river at that place? With this object, and proceeding to the said place, a son of general Robertson passed by New Madrid the 7th of May, and about that time had already passed several Americans to the same post.

Does it argue good faith or sincerity towards the Creeks to succour the Chickasaw nation with a portion of corn, that

they might with more convenience pursue the war which the son of general Robertson carried with him; and moreover a piece of artillery the use of which the Indians never knew and always feared?

The governour of New Madrid saw all this with his own eyes, and it was confirmed by many Indians of the Chickasaw nation who went with the same young man Mr. Robertson, who confessed that Congress had ordered this cannon to be given them at present, a declaration which indicates that it is also contemplated to furnish them more.

In the 11th article of the treaty between the United States and the Creeks, these last oblige themselves to give information to the citizens of the former of every design which they shall know or suspect to be formed in any of the neighbouring tribes, or by any person whatever against the peace and interests of the United States.

Is it good reciprocity, sincerity and good faith on the part of these, not only to inform the Creeks of the disposition of the Chickasaws against them, but that the said States should be the principal and exciting cause?

Let us pass under silence a thousand just reflections on the impropriety of the United States meddling with the affairs of nations who are, by treaties solemn and ratified, allied with Spain, and let us leave to the superior penetration of the President of the United States to decide if the repeated and positive assurances which we have given to these states in the name of the king our master of the firm disposition and desire to preserve the strictest friendship with the United States, and to exert himself in effecting a continuance of the same on the part of the Indian nations under his royal protection, if the different proofs which we have produced of what has been practised by the governour of Louisiana and St. Augustine, and the recent one which we have the honour to enclose, merit such a return as that which is experienced on the part of the United States.

You may vindicate the government of the United States (in those cases which want equal evidence with that which we have produced in some others, and which admits no reply) by insinuating again, that steps of such a nature, if they have been taken, is without the authority or knowledge of the government; let us suppose it in the article which admits of it, and let us pass on to the other.

Does it admit excuse, that the United States, after such repeated complaints on our part, founded on palpable facts and documents which cannot be refuted, against the persons

employed to manage the business of the Indians, should not have availed themselves of efficacious means to prevent the disorders in question? To the justice of the President of the United States we leave the answer.

Are the steps which the government of the United States has taken (evident from the proofs which we have presented before) less prejudicial than those which their subalterns have put in practice without the authority of the government as you affirm? We are persuaded they are not.

Recapitulating all the proceedings of the United States and of their agents with respect to our nation and the various nations of Indians, our allies, and comparing them with those of the king our master and his agents, we foresee, with no small sensibility, that the continuation of the peace, good harmony, and perfect friendship which have so happily prevailed till now between our nation and the United States, is very problematical for the future, unless the United States shall take more convenient measures and of greater energy than those adopted for a long time past.

These same considerations urge us to desire you to inform the President of the United States of the contents of this letter, and to entreat him earnestly on our part to use all his power and influence to hinder the fatal consequences to which, in the contrary event, the United States stand indubitably exposed: an event which cannot but be sensible to two nations whose reciprocal interests evidently require that they should remain united in friendship and good faith.

So we wish that it may be; and in the mean time, we repeat assurances of the sincere esteem and respect.

JAUDENES.

VIAR.

Mr. Jefferson,

*Secretary of State to Messrs. Carmichael and Short. Philadelphia, June 30, 1793.*

GENTLEMEN,—I have received from Messrs. Viar and Jaudenes, the representatives of Spain at this place, a letter which, whether considered in itself, or as the sequel of several others, conveys to us very disagreeable prospects of the temper and views of their court towards us. If this letter is a faithful expression of that temper, we presume it to be the effect of egregious misrepresentations by their agents in America. Revising our own dispositions and proceedings towards that power we can find in them nothing but those of peace and friendship for them. And conscious

that this will be apparent from a true statement of facts, I shall proceed to give you such a one, to be communicated to the court of Madrid. If they find it very different from that conveyed to them by others, they may think it prudent to doubt, and to take and to give time for mutual inquiry and explanation. I shall proceed to give you this statement, beginning it from an early period.

At the commencement of the late war the United States laid it down as a rule of their conduct to engage the Indian tribes within their neighbourhood to remain strictly neutral. They accordingly strongly pressed it on them, urging that it was a family quarrel, with which they had nothing to do, and in which we wished them to take no part; and we strengthened these recommendations by doing them every act of friendship and good neighbourhood which circumstances left in our power. With some these solicitations prevailed; but the greater part of them suffered themselves to be drawn into the war against us. They waged it in their usual cruel manner, murdering and scalping men, women and children, indiscriminately, burning their houses, and desolating the country. They put us to vast expense, as well by the constant force we were obliged to keep up in that quarter, as by expeditions of considerable magnitude which we were under the necessity of sending into their country from time to time.

Peace being at length concluded with England, we had it also to conclude with them. They had made war upon us without the least provocation or pretence of injury. They had added greatly to the cost of that war. They had insulted our feelings by their savage cruelties. They were by our arms completely subdued and humbled. Under all these circumstances we had a right to demand substantial satisfaction and indemnification. We used that right, however, with real moderation. Their limits with us under the former government were generally ill defined, questionable, and the frequent cause of war. Sincerely desirous of living in their peace, of cultivating it by every act of justice and friendship, and of rendering them better neighbours by introducing among them some of the most useful arts, it was necessary to begin by a precise definition of boundary. Accordingly at the treaties held with them our mutual boundaries were settled. And notwithstanding our just right to concessions adequate to the circumstance of the case, we required such only as were inconsiderable; and for even these, in order that we might place them in a state of per-

fect conciliation, we paid them a valuable consideration, and granted them annuities in money, which have been regularly paid, and were equal to the prices for which they have usually sold their lands. Sensible as they were of the wrong they had done, they expected to make some indemnification; and were for the most part satisfied with the mode and measure of it. In one or two instances, where a dissatisfaction was observed to remain as to the boundaries agreed on, or doubts entertained of the authority of those with whom they were agreed, the United States invited the parties to new treaties, and rectified what appeared to be susceptible of it. This was particularly the case with the Creeks. They complained of an inconvenient cession of lands on their part, and by persons not duly representing their nation. They were therefore desired to appoint a proper deputation to revise their treaty, and that there might be no danger of any unfair practices, they were invited to the seat of the general government, and to treat with that directly. They accordingly came. A considerable proportion of what had been ceded was, on the revision, yielded back to them, and nothing required in lieu of it; and though they would have been better satisfied to have had the whole restored, yet they had obtained enough to satisfy them well. Their nation too would have been satisfied, for they were conscious of their aggression, and of the moderation of the indemnity with which we had been contented. But at that time came among them an adventurer by the name of Bowles, who, acting from an impulse with which we are unacquainted, flattered them with the hope of some foreign interference which should undo what had been done, and force us to consider the naked grant of their peace a sufficient satisfaction for their having made war on us. Of this adventurer the Spanish government rid us; but not of his principles, his practices, and his excitements against us. These were more than continued by the officers commanding at New Orleans and Pensacola, and by agents employed by them and bearing their commission. Their proceedings have been the subject of former letters to you; and proofs of these proceedings have been sent to you. Those, with others now sent, establish the facts that they called assemblies of the southern Indians, openly persuaded them to disavow their treaties and the limits therein established, promised to support them with all the powers which depended on them, assured them of the protection of their sovereign, gave them arms in great quantities for the avowed purpose of committing hostilities on us,

and promised them future supplies to their utmost need. The Chickasaws, the most steady and faithful friends of these States, have remained unshaken by these practices. So also have the Choctaws for the most part. The Cherokees have been teased into some expressions of discontent, delivered only to the Spanish governours or their agents; while to us they have continued to speak the language of peace and friendship. One part of the nation only, settled at Chickamogga, and mixed with banditti and outcasts from the Shawanese and other tribes, acknowledging control from none, and never in a state of peace, have readily engaged in the hostilities against us, to which they were encouraged. But what was much more important, great numbers of the Creeks, chiefly their young men, have yielded to the incitements, and have now for more than a twelve month been committing murders and desolations on our frontiers. Really desirous of living in peace with them, we have redoubled our efforts to produce the same disposition in them. We have borne with their aggressions, forbidden all returns of hostility against them, tied up the hands of our people, insomuch that few instances of retaliation have occurred even from our suffering citizens. We have multiplied our gratifications to them, fed them when starving, from the produce of our own fields and labour. No longer ago than the last winter, when they had no other resource against famine, and must have perished in great numbers, we carried into their country, and distributed among them gratuitously, 10,000 bushels of corn, and that too at the very time when their young men were daily committing murders on helpless women and children on our frontiers; and though these depredations now involve more considerable parts of their nation, we are still demanding the punishment of the guilty individuals, and shall be contented with it. These acts of neighbourly kindness and support, on our part, have not been confined to the Creeks, though extended to them in much the greatest degree. Like wants among the Chickasaws had induced us to send to them also, at first 500 bushels of corn, and afterwards 1,500 bushels more. Our language to all the tribes of Indians has constantly been, to live in peace with one another; and in a most especial manner we have used our endeavours with those in the neighbourhood of the Spanish colonies to be peaceable towards those colonies. I sent you, on a former occasion, the copy of a letter from the Secretary at War to Mr. Seagrove, one of our agents with the Indians in that quarter, merely to convey to you the general tenour of the conduct

marked out for those agents; and I desired you, in placing before the eyes of the Spanish ministry the very contrary conduct observed by their agents here, to invite them to a reciprocity of good offices with our Indian neighbours, each for the other, and to make our common peace the common object of both nations. I can protest that such has hitherto been the candid and zealous endeavours of this government; that if its agents have in any instance acted in another way, it has been equally unknown and unauthorized by us, and that were even probable proofs of it produced there would be no hesitation to mark them with the disapprobation of the government. We expected the same friendly condescension from the court of Spain in furnishing you with proofs of the practices of the governour de Carondelet in particular; practices avowed by him, and attempted to be justified in his letter.

In this state of things, in such dispositions towards Spain and towards the Indians, in such a course of proceedings with respect to them, and while negotiations were instituted at Madrid for arranging these and all other matters which might affect our friendship and good understanding, we received from Messrs. de Viar and Jaudenes their letter of May 25th, which was the subject of mine of May 31st to you; and now again we have received that of the 18th instant, a copy of which is enclosed. This letter charges us, and in the most disrespectful style,

1. Exciting the Chickasaws to war on the Creeks.
2. Furnishing them with provisions and arms.
3. Aiming at the occupation of a post at the Ecores Amargas.
4. Giving medals and marks of distinction to several Indians.
5. Meddling with the affairs of such as are allies of Spain.
6. Not using efficacious means to prevent these proceedings.

I shall make short observations on these charges.

1. Were the first true it would not be unjustifiable. The Creeks have now a second time commenced against us a wanton and unprovoked war, and the present one, in the face of a recent treaty and of the most friendly and charitable offices on our part. There would be nothing out of the common course of proceeding, then, for us to engage allies, if we needed any, for their punishment. But we neither need nor have sought them. The fact itself is utterly false, and we defy the world to produce a single proof of it. The declaration of war by the Chickasaws, as we are informed,

was a very sudden thing, produced by the murder of some of their people by a party of Creeks, and produced so instantaneously as to give nobody time to interfere, either to promote or to prevent a rupture. We had, on the contrary most particularly exhorted that nation to preserve peace, because, in truth, we have a most particular friendship for them. This will be evident from a copy of the message from the President to them among the papers now enclosed.

2. The gift of provisions was but an act of that friendship to them, when in the same distress which had induced us to give five times as much to the less friendly nation of the Creeks. But we have given arms to them. We believe it is the practice of every white nation to give arms to the neighbouring Indians. The agents of Spain have done it abundantly, and we suppose not out of their own pockets, and this for purposes of avowed hostility on us; and they have been liberal in promises of further supplies. We have given a few arms to a very friendly tribe, not to make war on Spain, but to defend themselves from the atrocities of a vastly more numerous and powerful people, and one which, by a series of unprovoked and even unrepelled attacks on us, is obliging us to look towards war as the only means left of curbing their insolence.

3. We are aiming, as is pretended, at an establishment on the Mississippi at the Ecores Amargas. Considering the measures of this nature with which Spain is going on, having since her proposition to treat with us on the subject, established posts at the Walnut-hills and other places for 200 miles upwards, it would not have been wonderful if we had taken countervailing measures. But the truth is, we have not done it. We wished to give a fair chance to the negotiation going on; and thought it but common candour to leave things in statu quo, to make no innovation, pending the negotiation. In this spirit we forbid and deterred, even by military force, a large association of our citizens, under the name of the Yazoo companies, which had formed to settle themselves at those very Walnut-hills, which Spain has since occupied; and so far are we from meditating the particular establishment so boldly charged in this letter that we know not what place is meant by the Ecores Amargas. This charge then is false also.

4. Giving medals and marks of distinction to the Indian chiefs. This is but blindly hinted at in this letter, but was more pointedly complained of in the former. This has been an ancient custom from time immemorial. The medals are

considered as complimentary things, as marks of friendship to those who come and see us, or who do us good offices, conciliatory of their good will towards us, and not designed to produce a contrary disposition towards others. They confer no power, and seem to have taken their origin in the European practice of giving medals, or other marks of friendship, to the negotiators of treaties and other diplomatic characters, or visiters of distinction. The British government, while it prevailed here, practised the giving medals, gorgets, and bracelets, to the savages invariably. We have continued it; and we did imagine, without pretending to know, that Spain also did it.

5. We meddle with the affairs of Indians in alliance with Spain. We are perfectly at a loss to know what this means. The Indians on our frontier have treaties both with Spain and us. We have endeavoured to cultivate their friendship, to merit it by presents, charities, and exhortations to peace with their neighbours, and particularly with the subjects of Spain. We have carried on some little commerce with them, merely to supply their wants. Spain too has made them presents, traded with them, kept agents among them, though their country is within the limits established as ours at the general peace. However Spain has chosen to have it understood that she has some claim to some parts of that country, and that it must be one of the subjects of our present negotiations. Out of respect for her, then, we have considered her pretensions to the country, though it was impossible to believe them serious, as colouring pretensions to a concern with those Indians on the same ground with our own, and we were willing to let them go on till a treaty should set things to rights between us.

6. Another article of complaint is, that we have not used efficacious means to suppress these practices. But if the charge is false, or the practice justifiable, no suppression is necessary.

And lastly, these gentlemen say that on a view of these proceedings of the United States with respect to Spain and the Indians their allies, they foresee that our peace with Spain is very problematical in future. The principal object of the letter being *our* supposed excitements of the Chickasaws against the Creeks, and their protection of the latter, are we to understand from this, that if we arm to repel the attacks of the Creeks on ourselves, it will disturb our peace with Spain? That if we will not fold our arms, and let them butcher us without resistance, Spain will consider it as a cause of war? This is indeed so serious an intimation that

the President thought it could no longer be treated with subordinate characters, but that his sentiments should be conveyed to the government of Spain itself through you.

We love, and we value peace ; we know its blessings from experience. We abhor the follies of war, and are not untied in its distresses and calamities. Unmeddling with the affairs of other nations, we had hoped that our distance and our dispositions would have left us free in the example and indulgence of peace with all the world. We had with sincere and particular dispositions courted and cultivated the friendship of Spain. We have made to it great sacrifices of time and interest, and were disposed to believe she would see her interest also in a perfect coalition and good understanding with us. Cherishing still the same sentiments, we have chosen, in the present instance, to ascribe the intimations in this letter to the particular character of the writers, displayed in the peculiarity of the style of their communications ; and therefore we have removed the cause from them to their sovereign, in whose justice and love of peace we have confidence. If we are disappointed in this appeal, if we are to be forced into a contrary order of things, our mind is made up ; we shall meet it with firmness. The necessity of our position will supercede all appeal to calculation now, as it has done heretofore. We confide in our own strength, without boasting of it : we respect that of others, without fearing it. If we cannot otherwise prevail on the Creeks to discontinue their depredations, we will attack them in force. If Spain chooses to consider our self defence against savage butchery as a cause of war to her, we must meet her also in war, with regret, but without fear ; and we shall be happier to the last moment to repair with her to the tribunal of peace and reason.

The President charges you to communicate the contents of this letter to the court of Madrid with all the temperance and delicacy which the dignity and character of that court render proper, but with all the firmness and self respect which besit a nation conscious of its rectitude and settled in its purpose. I have the honour to be, &c. TH: JEFFERSON.

*Extract of a Letter from M. de Montmorin, Ambassador of France at Madrid, to M. de Vergennes, Minister of Foreign Affairs.*

“ THE cabinet of Madrid, Monsieur le Comte, thinks it has the greatest interest not to open the Mississippi to the

Americans, and to disgust them from making establishments on that river, as they would not delay to possess themselves of the commerce of New Orleans and Mexico, whatever impediments should be opposed to their progress, and that they would become neighbours the more dangerous for Spain, as even in their present weakness they conceive vast projects for the conquest of the western shore of the Mississippi."

Montmorin adds, "that Spain is decided to make the savages a barrier between her possessions and those of the Americans; that it would oppose, if necessary, other obstacles to their progress; and that his most christian majesty could not give to his catholick majesty a greater proof of his attachment than in employing his influence in the United States to divert their views from the navigation of the Mississippi."

The court of France conformed itself constantly to this insinuation, as is proved by the instructions which it gave to all its ministers with Congress.

*The Secretary of State to Messrs. Viar and Jaudenes.*

THE Secretary of State presents his compliments to Messrs. Viar and Jaudenes, and informs them that the government of the United States, having occasion to send publick despatches to their commissioners plenipotentiary at the court of Madrid, James Blake, a citizen of the United States, is employed as their courier to be the bearer of them. He is to embark on board the ship bound to Cadiz, in Spain; and the Secretary of State asks from the commissioners of Spain their passport for the said courier, in such form as may protect his person and despatches from harm and search, both by sea and land. The Secretary of State offers to have conveyed by the same person any despatches they may choose to transmit by him to the country he is going to. He departs the 13th instant.

July 11, 1793.

*Secretary of State to Messrs. Viar and Jaudenes. Philadelphia, July 11, 1793.*

GENTLEMEN,—Your letter of the 8th of June has been duly received and laid before the President of the United States. The matter it contains is of so serious a complexion that he chooses to treat of it with your government directly. To them, therefore, his sentiments thereon will be communicated

through the channel of our commissioners at Madrid, with a firm reliance on the justice and friendship of his catholic majesty. In doing this it will be impossible not to manifest the impression which the style as well as matter of your communications make on the government of the United States. I have the honour to be, &c.

TH: JEFFERSON.

*To Mr. James Blake.*

SIR,—You will proceed with all diligence in the ship bound to Cadiz, in Spain, with the despatches committed to you for Messrs. Carmichael and Short, commissioners plenipotentiary of the United States of America at Madrid. When arrived at your port of destination, or any other to which you may by accident be forced, proceed directly to Madrid by such conveyance as will best reconcile safety, reasonable despatch, and due economy. You will be furnished with proper passports from the commissioners of Spain residing here and myself to insure to yourself, as the courier of this government, and the despatches of which you are the bearer, that protection from harm and freedom from search or impediment, which you will be entitled to by the law of nations, from a friendly nation. When arrived at Madrid, deliver your despatches into the hands of the commissioners themselves, and no other. Await there their orders, and return to this place with their answers in such way as will again best combine safety, despatch, and economy. Keep an exact account of your disbursements, letting them be perfectly reasonable, according to the character in which you go; providing vouchers for such articles as will admit of it, and proving the residue on oath.

Over and above these reasonable expenses you will be allowed at the rate of \$500 a year for your time and trouble.

Given under my hand, and the seal of the department of [L. s.] state, this twelfth day of July, 1793.

TH: JEFFERSON.

TRANSLATION.

*Messrs. Viar and Jaudenes to the Secretary of State. Philadelphia, July 11, 1793.*

SIR,—Rumours have been circulating for some days among the people, giving to understand that there prevails, on the

part of the king our master and of ourselves, some design of interrupting the friendship and good correspondence which so happily subsist between the two nations on the subject of Indians.

We have heard without noticing this hitherto, endeavouring to convince those who have spoken to us on the subject with such reasons as justice and our understanding have suggested; but a piece having been published in the gazette of Mr. Bache, of this morning, the contents of which cannot but produce great disgust against his majesty and those whom we have the honour to represent, it appears to us indispensable to desire you to be so good as to inform the President of the United States thereof, on his return, that he may be pleased to take in justification those measures which he may judge most proper to remove from the publick the impression of so unfounded a charge with which they calumniate the king and ourselves.

You well know, sir, that in all our communications we have had the honour to assure the United States of the pacifick and sincere disposition of his majesty towards them and the Indians their neighbours; and that the king's orders to us, and all the governours of his possessions on the frontiers, have been of the same nature; and you know also that whatever information we have given to the United States on the turbulent dispositions of the Indians towards the United States, and of the conduct of their agents on the frontiers, have and could have no other object than to induce the United States to use all possible means on their part to prevent the dissensions now in fermentation, our government promising to continue doing the same, as it has proved to have done hitherto.

You are equally possessed of the different evident proofs which we have had the honour of producing to the United States, by which it is discovered clearly that the agents of the government of the United States have not proceeded conformably to the principles of friendship, good correspondence and sincerity which you have repeatedly assured us is the object of the United States.

The principal object in all our communications has been, and is, to obtain from the United States a cessation of acts which may be construed in a sense neither pacifick nor friendly while a negotiation is depending between the two nations, pledging ourselves solemnly that the same shall be done by the king's governours on the frontier.

The reciprocal tranquillity and interest of the two nations require that the minds of the inhabitants should not be irri-

tated on either side, and in a government of the nature of that of the United States the opinion of the people is of the greatest importance.

This consideration urges us to entreat the President of the United States to be pleased to assure the publick, in such way as he thinks most convenient and satisfactory, that the disposition of the king our master, as well as of his representatives, neither has been, nor is, to foment the discord between the two nations, nor with the Indians; but on the contrary to establish the most solid and reciprocal friendship and advantageous correspondence; and that on all occasions they have given unquestionable proofs of it: the discord observed at present flowing solely from misintelligence, or a defect of rigorous observance of the orders of their superiors by the agents of this government on the frontiers; assuring you that if any of the agents of the king has contravened the orders of his majesty (of which we have no proof but quite the reverse) and the United States shall produce to the king due proof of the fact, we have no doubt they will obtain the most complete satisfaction, they doing the same on their part.

We are firmly persuaded that the President of the United States, with his superior understanding, will adopt the most proper and efficacious remedies which this inveterate ill requires, until the negotiation depending shall present a radical cure. We have the honour to repeat, &c.

JOSEPH IGNACIO DE VIAR,  
JOSEPH DE JAUDENES.

To Mr. Jefferson, &c.

#### TRANSLATION.

*Messrs. Jaudenes and Viar to the Secretary of State. Philadelphia, July 13, 1793.*

SIR,—It is with great sensibility we observe that the office which we had the honour to send you on the 18th of June last has given any kind of disgust to the government of the United States, as we perceive by your favour of the 11th instant.

We assure you particularly with the purest truth that if any warmth is observed in it, it has no other object than to give all possible energy to the reason which we are persuaded is on our side, and that we are very far from having the least desire of offending the government of the United States,

nor of showing the least want of respect, but the most cordial affection to their most worthy President, and to your own merit.

Be pleased, sir, to present this to the President of the United States, and to receive yourself this sincere assurance of our true esteem and indubitable attachment to the United States, and the very worthy heads of its government, while we remain firmly convinced that the king our master will not fail to prove the justice, friendship, and generosity, which characterize him, and which he has always manifested to the United States. We have the honour to subscribe ourselves, &c.

JOSEPH DE JAUDENES,  
JOSEPH IGNATIUS DE VIAR.

*The Secretary of State to Messrs. de Viar and Jaudenes. Philadelphia, July 14, 1793.*

GENTLEMEN,—I have laid before the President your letters of the 11th and 13th instant. Your residence in the United States has given you an opportunity of becoming acquainted with the extreme freedom of the press in those States. Considering its great importance to the publick liberty, and the difficulty of subjecting it to very precise rules, the laws have thought it less mischievous to give greater scope to its freedom than to the restraint of it. The President has therefore no authority to prevent publications of the nature of those you complain of in your favour of the 11th. I can only assure you that the government of the United States has no part in them, and that all its expressions of respect towards his catholick majesty, publick and private, have been as uniform as their desire to cultivate his friendship has been sincere.

With respect to the letters I have had the honour of receiving from you for some time past, it must be candidly acknowledged that their complexion was thought remarkable as to the matters they brought forward, as well as the style of expressing them. A succession of complaints, some founded on small things taken up as great ones, some on suggestions contrary to our knowledge of things, yet treated as if true on very inconclusive evidence, and presented to view as rendering our peace very problematical, indicated a determination to find cause for breaking that peace. The President thought it was high time to come to an eclairsissement with your government directly, and has taken the measure of sending a courier to Madrid for this purpose.

This of course transfers all explanation of the past to another place. But the President is well pleased to hope from your letters of the 11th and 13th that all, perhaps, had not been meant which had been understood from your former correspondence; and will be still more pleased to find these and all other difficulties between the two countries settled in such a way as to ensure their future friendship. I beg you to accept assurances, &c.

TH: JEFFERSON.

*Messrs. Jaudenes and de Viar to the Secretary of State. New York, November 30, 1793.*

SIR,—Corroborating the good disposition of our governours in Louisiana and St. Augustine towards preserving peace with the United States and the Indians of the frontiers, as we have repeatedly manifested to you on former occasions, we have now the honour of transmitting to you a copy of a letter written to us by the latter governour, and of the document which it enclosed, as also a copy of an extract of a letter which we have received from the former. We request you to acquaint the President of the United States with their contents that he may be thoroughly convinced of the facts that on many occasions we have suggested, and that he may renew his wise dispositions for the object so desirable of preserving the good harmony and friendship which happily exist between the two nations.

We hope it may be so. Mean while we have the honour to subscribe ourselves with the greatest respect, &c.

JOSEPH DE JAUDENES,  
JOSEPH IGNACIO DE VIAR.

*Copy of a Letter from the Governour of St. Augustine, of Florida, to the King's Charges des Affaires.*

A RUMOUR having been spread in this province, with mischievous activity, that some of its inhabitants had written a letter to the Indian nations in order to kill four white men there settled, some adding an insinuation that this determination was with the support of government, and others that it came from Mr. Panton, settled in Pensacola, and a merchant in the Indian trade, with the permission of our court, I could not persuade myself to believe that a neighbour whose conduct is so perfectly qualified should proceed in such a manner; and having previously some ground to believe that

such transactions might have originated in the frontiers, on account of the dissensions which prevail there, it appeared to me indispensable, and not to be omitted, to take some measures to verify the fact; and from those it has resulted, what you will find in the enclosed documents which I send, that you may make the use of them which you shall think proper. Perceiving the approach of a very general displeasure in St. Mary's river and coast of the north, according to the advice I continually receive from the south of that jurisdiction, the greater part of whose inhabitants have their connections with the former, and catch from thence the sparks that I endeavour to extinguish, in order to maintain the peace and harmony so much recommended by our superiors, I fear this may be interrupted, if the executive power of the United States does not take the most active measures to extinguish in time this conflagration. Your constant and well known prudence will adopt on this information what you judge most expedient for the service of his majesty and his royal and good intentions.

God preserve you many years. Saint Augustine of Florida, September 12, 1793.

JOHN NEPOMUCENUS DE RUESADO.

Joseph de Jaudenes, and Joseph Ignacio de Viar, Esqrs.

Is a Copy.

JAUDENES,  
VIAR.

#### TRANSLATION.

*Extract of a Letter from the Governour of Louisiana to the King's Charges des Affaires. New Orleans, October 15, 1793.*

In consequence of the attack made by the people of Georgia on a town belonging to the Creek nation, on this side of the Oconee river, they resolved to invade the state of Georgia with four armies or numerous bodies, and in four different parts. But Peter Olivier, Esq. the king's commissary, threatened those Indians to retire from their nation, and to leave them without the protection of Spain, if they should execute their resolution. And in the end he effected the prevention of it. But a few days after the people of Georgia returned again, and attacked and burnt another small town called Hoethletiaga, forty-five miles distant from Cowittas, killing four Indians, wounding three others, and carrying away four women, a boy and three girls; which obliged the nation to renew hostilities and to send to Hallow-

ing King, soliciting our protection, arms and ammunitions, agreeably to the treaty concluded between his nation and Spain. I cannot refuse attention to his petitions, as the Georgians have been the aggressors; and if I refuse to help them with arms and ammunition, the Georgians will drive them from their country into ours; so that I find myself in a very critical situation.

Is a Copy.

JAUDENES,  
VIAR.

#### DECREE.

IN the city of St. Augustine of Florida on the 31st of August, 1793, John Nepomuceno de Quesada, Esquire, by the favour of his majesty colonel of the royal army, governour general, commander and royal vice protector of him and his province, noticing that it has been rumoured that from the province aforesaid letters were sent from the Indian nations, with orders to kill some white men settled amongst them, and some with children; and that such an important publication is worthy of the greatest attention; in order to avoid, by prudent means, the very fatal consequences which might flow from it, to proceed with proper certainty, and to ascertain the fact, together with its author, and in consequence to give the competent orders for his punishment, according to the enormity of his crime, and others necessary to insure peace: His honour has commanded by this decree that a declaration be taken from John Hambly, of whatever he may have learnt of this particular in his last visit to the said nations on the king's business, by virtue of the commission he has as a person acquainted with the Indian language; wherefore he is ordered to appear before his honour with the publick interpreter, he the said Hambly not speaking the Spanish language, but the English, which is his native tongue; and the said declaration being made, together with its additions, if he shall make any, that they be produced. Whereupon by his honour's commands the same is ordered. In faith whereof he signs these presents. QUESADA.

Before me,

JOSEPH DE ZUBIZARRETA,

Notary of the Government.

#### DECLARATION.

IN the city of St. Augustine of Florida, on the day, month and year aforesaid, appeared before his honour Mr. John

Hambly, who before me the notary, and through Mr. Mitchell Iznardy, publick interpreter, took the oath in presence of God Almighty, believing in the Holy Bible according to the protestant sect which he professes, to tell the truth as to whatever he knows and shall be asked, according to the foregoing decree; and has deposed, that being amongst the Indian nations, where he went with a particular commission from this government, he lodged in the house of James Burgues, who repeatedly told him that he had seen a letter written by James Seagrove to the chief of that nation, called John Canard, in which he earnestly requested him to procure the death of four white persons, his own included, George Barnett, Noah Harold and George Wilbank, who were also settled in the nations aforesaid, by which means he might obtain for Robert Seagrove, his brother, the recovery of the property the Indians took from him, with that belonging to those whom he wished to be killed, and that if this could be put into execution, it would save the lives of the four Indians demanded by the Americans for the same number of their people killed by the said Indians; and that if he should comply with it, as he hoped, he would appoint him a commissioner in the lower nations of the Creeks. To which he added, that he thought Seagrove had been influenced to write such a letter because Jacob Allen had told Seagrove that Burgues was the cause of his brother Robert's loss. Being asked whether the aforesaid James Burgues (from whom he learnt what he had just now declared) told him that any person living or inhabiting this province had any interference or knowledge in the letter aforesaid, or whether by means of any body of this province it was conveyed to the hands of John Canard, or if he knows any thing on this particular, he said, that Burgues neither told him the means or conveyance through which Canard received the letter; nor whether any body of this province had or had not any thing to do in the business; neither does he who makes this declaration know more than what he has just said; and answers that all this is the truth upon his oath; and this declaration of his, having been read to him, he agreed with its contents, adding, that after he spoke with Burgues, and arrived at Canard's house, to which he was directed, the latter confirmed to him the same report, without telling him who was the bearer of the letter: however, reflecting upon the matter, he supposes it to have been George Galphin, who, according to what Canard said to him, had been a few days before in his house: that he is two and forty years old; and

he signed, together with his honour and the interpreter, which I do certify.

QUESADA.

JOHN HAMBLY,  
MITCHEL ISNARDY,

Before me,

JOSEPH DE ZUBIZARRETA,  
Notary of the Government.

#### DECLARATION.

AT the same time, by order of his honour, appeared Jacob or James Allen, who before me, the notary, and through Mr. Mitchel Isnardy, publick interpreter, to an oath in the presence of God Almighty, believing in the Holy Bible according to the protestant sect which he professes, and being examined in consequence of the foregoing decree, and requested to relate whatever he knows respecting this particular, without omitting the least circumstance, his honour being informed that the evidence is acquainted with it, he deposed that having been lately in the Indian nation, and in the house of Pen, the chief of Lachua's, the same told him that he heard from John Hambly that John Canard, Indian chief of the Chatoes, had received a letter from Mr. James Seagrove, superintendent and general commissioner of the Indians for the United States, requesting him to take the life of John Galphin, George Wilbank, James Burgues with his son, and an Indian called Mecaticocheske; that he thinks this proceeds (if the fact be so, he having no knowledge of it) from the animosity of Seagrove against the Indians and some white men, on account of the murders they committed in Georgia, together with the plundering of his brother Robert's store, the authors of which are supposed to be Burges and the others mentioned: and being asked whether he, who says he has been so much with Mr. James Seagrove, believes him capable of such a perpetration, being a respectable man, he said that if Seagrove was determined to it (of which he neither knows, nor has heard any thing) he had it in his power, because he knows how to write, and entertains the animosity aforesaid. Being asked whether Pen, speaking to him about the said letter, told him that Seagrove had offered to Canard any reward or employ to encourage him to the execution of the murders aforesaid, answered that he did not tell him any such thing. Being asked whether he knows any thing about the murders lately committed upon the Indians in St. Mary's river, and who gave such orders, he says he knows that David Cornell fell in the action, and

that the other man who went along with him has not appeared in the nation, from which he supposes him to have been murdered; and concerning the order by which this mischief had been committed, Mr. Hammond, neighbour of the same river on the American coast, told him that two men of the company, living on the said coast, informed him that they had perpetrated the murders by order of Mr. Randolph their commander, and that they had declared the same before a justice of the peace in Savannah. This declaration having been read to him by the interpreter, he said it was faithfully written, and that he had nothing to add to it, or to change, that he is three and thirty years old. He did not sign his name, because he said he could not, and made only his usual mark. His honour signing it, and the interpreter, which I do certify.

QUESADA.

Here the mark.

MITCHEL IZNARDY.

Before me, JOSEPH DE ZUBIZARRETA,  
Notary of the Government.

ST. AUGUSTINE, Florida, September the second, one thousand seven hundred and ninety-three. For the purposes which it may concern, I the present notary certify that Pen, the Indian chief of Latchua nation, declared the last time he was in this city, upon the different questions proposed to him concerning the point which is now under proof, at which conversation the said officer was present, and this certificate being authenticated will be produced with the other papers.

QUESADA.

Before me, JOSEPH DE ZUBIZARRETA,  
Notary of the Government.

#### CERTIFICATION.

I do certify, according to the best of my abilities and duty, that on the last occasion when Pen, the Indian chief of Latchua nation, was in this city, I was present at the conversation which he had with his honour by means of an interpreter; and amongst other things they spoke about letters sent to the Indian nations to kill some white men who were settled there; and notwithstanding the repeated questions proposed to him by his honour to discover the truth, as likewise whether he had any knowledge that they were sent from this province, or by any body of it, the Indian said, that although he had some information of the letter by

hearsay, and that they were directed to take the life of some white men, he could not discover the motive or cause, neither was he certain of it, for the men mentioned gave no reason for it, therefore what he thought and was believed was, that nothing went from this province, but were that they were the transactions of the Americans in resentment for the slaughters committed on them in some skirmishes, and in the war commenced of which they suppose the white men aforesaid to be the authors; consequently he affirmed that they were killed neither by him nor the rest of the chiefs of the other nations; and in compliance with the orders expressed in the precedent decree I set my hand to this certificate. Florida, September 2, 1793.

JOSEPH DE ZUBIZARRETA,  
Notary of the Government.

DECREE.

*St. Augustine of Florida, Sept. 4, 1793.*

RESERVING the continuance of the examination, to which this instrument is directed, should there be any ground for it, let an authentick copy be made out by duplicates of all the proceedings for the object reserved. QUESADA.

Before me, JOSEPH DE ZUBIZARRETA,  
Notary of the Government.

CONFORMABLE to the originals, which remain in the archives under my care, whereto I refer myself, and in compliance with orders, I set my signature to this on common paper, the practice not being to do it on that which is stamped. Florida, September 7, 1793.

JOSEPH DE ZUBIZARRETA,  
Notary of the Government.

Is a true Copy,

JAUDENES,  
VIAR.

*Messrs. Carmichael and Short to the Secretary of State.  
Aranjuez, June 6, 1793.*

SIR,—We had the honour of writing to you jointly on the \*19th of February, 18th of April, and 5th of May. These letters were sent by duplicates, and went into very minute details of whatever had occurred here with respect

\* Not received.

to the business of our joint commission. Such conveyances as could with propriety be made use of have not presented themselves so as to admit of our writing more often; and the state of things did not appear to us such as to require the sending of special messengers.

These letters will have informed you of the delay which took place before opening the first conferences with M. de Gardoqui, on the 23d of March; of the manner in which our ideas on the subject of the Mississippi and territorial limits were received by him. If his ideas on the same subjects, being so divergent therefrom, and expressed to us in such a manner as to show beyond all kind of doubt that they could not then be brought within the circle of negotiation, of the embarrassing position in which this placed us on account of the changes which had taken place in the foreign relations of this country, since your instructions had been drawn up, and particularly those which it was probable they were then forming with England, and finally of our determination therefore not to push the negotiation until some change should turn up, or until we should hear further from you, or until the President should have been made acquainted with the events which had thrown England and this country into the same scale, and that the one in which most of the military and marine powers of Europe were already placed, and the rest of them likely to enter either of themselves or by force.

According to our calculation of the time when you would probably have received from your ministers at London and Paris the intelligence of this posture of European politicks, we flattered ourselves we should hear from you in pursuance thereof before this; and we have found that we were not mistaken in the time we allowed, as Mr. Gardoqui has already received letters from the Spanish commissaries, informing him of the arrival in America of the news of the execution of Louis XVI, of the declaration of war between France and England, and the certain expectation of the same between France and this country. We still suppose it impossible you should not have done us the honour to write to us, after being informed of a revolution of that kind, whether the intention of the President should have been that the negotiation should be accommodated to the effects produced by that revolution, or that it should be pushed without regard thereto, conformably to the instructions originally sent us. We trust that your letters on that subject must be now on their way, and we are in impatient expectation of receiving them.

Whatever we shall learn from you to be the President's intention on the subject, we shall immediately proceed to execute; and we trust that you will readily see that the present system of prolongation, which we have taken [upon] ourselves, does not proceed from a desire to exercise our own will, but to leave time for being more unquestionably informed of that of the President. We are fully persuaded the line we have thus pursued will be considered the proper one; and particularly as the greatest inconvenience which could result therefrom, as it appeared to us, was a short delay; whereas an opposite one might have produced very disagreeable and dangerous effects which both the United States and Spain might have repented of hereafter in vain.

Our letters will have already given you such a statement of affairs here, at that time, as to have exhibited this dilemma in a very clear point of view. Still we beg leave to recapitulate it here for the greater certainty of its reaching you. This we consider the more important, as, generally speaking, the eve of a nation being drawn into a war being an auspicious moment for those who are at peace with them to demand a restitution of their rights, this may therefore be considered in America the proper time for the United States to have urged their claims here.

Our joint commission arrived at Madrid, as we have already had the honour of informing you, on the first of February, almost at the same moment with the news of the catastrophe of the 21st of January. The probability which had previously existed of this country being brought into an union of measures with England was now changing daily into certainty, and, before the commencement of our conferences, was placed beyond doubt.

Although Spain, thus circumstanced, would consider her position in general as a much less eligible one than whilst united with France, yet with respect to us in particular she would consider her present posture more favourable than her former one, or, in other words, she would consider herself better secured against us whilst united with England against France, already attacked by the most formidable powers of Europe, than whilst united with France, whose partiality for us she distrusted, and opposed to England, whose concert with us she would have apprehended.

We were persuaded of this, both from the nature of the case and from different circumstances which have occurred. Our first conference with M. de Gordoqui put this beyond doubt, and showed unquestionably that it was far from the

intention of the cabinet at this time to yield any thing correspondent to our claims, whatever it might have been under the administration of count de Florida Blanca, or whatever assurances, unknown to us, they may have formerly given to the President, so as to have induced his sending a commission to treat here.

Whilst we were fully impressed with this conviction, and satisfied that no mode of negotiation which we could adopt would induce this court to come to any terms which we were authorized under your instructions to accept, we saw Spain and England now decidedly placed on the same side, by having a common enemy, and then treating of the basis of their future union. It was unquestionable that England would desire this to be as close as possible, in order to have Spain the more in her dependence, and to cut off hopes of the revival of the family compact in the case of a counter revolution in France. It was as unquestionable that Spain, keeping still an eye on this event and being the weaker and more distrustful power, would enter timorously and cautiously into this system.

It could not be doubted that the effects of their distrust with respect to England would be diminished in proportion to their apprehension of danger from any other quarter. Had we then pressed this negotiation, and convinced them of our fixed determination not to desist from any part of what we consider as our right (and what they seem now to consider as a commencement of the loss of their American commerce and territorial possessions) and forced them by this means to give us a positive refusal, on a solemn demand having been made by an express commission formed and sent for that purpose, it is impossible, in whatever manner we might have received it, or whatever reasons we might have given, to have persuaded them of the pacifick intentions of the United States, that they should not have supposed it their determination to have resorted to other means of redress. That apprehension acting on them would unavoidably have made them more tractable with respect to England, and would have secured them the protection of that country, as they would have made fewer difficulties about the price to be paid for it.

This kind of alarm in the Spanish cabinet, with respect to us, would at any time during the war have an influence on their relations with England different from what we should desire; but it appeared to us that it would be still greater at the moment the two courts were feeling each others pulse,

as it were, and agreeing on the arrangements to be entered into against a common enemy, than at any future period. Although we have remained altogether uninformed of the present dispositions of England with respect to the United States, still we could not help supposing that the present situation of European affairs would appear to that power as by no means favourable to them, so far as should relate to their European connections, or prospect of aid from thence in case of need.

From pushing the negotiation immediately to its close, under these circumstances, we apprehended the inconveniences above mentioned. On the other hand it appeared to us that a temporizing mode of proceeding presented several advantages.

It enabled us (being fully convinced of the decision of this court without proceeding further) to inform you of that decision, and give time for whatever measures might be thought proper to be taken before the views of the United States, with respect to what they will invariably insist on, are fully and officially known here: which will not be until the breaking off of our conferences, as they may still suppose that we may be induced to recede from a part of what are stated in our first conference as our right. It enabled us also to receive (before taking steps that might render it too late) further instructions from you, grounded on the change of European affairs, which had been such as to render it highly probable that the President might choose to adapt thereto those which you had forwarded to us under circumstances so different.

These considerations seemed to us to exact our pursuing the line we have mentioned; and we did not doubt the delay which we then contemplated would be amply repaid by those advantages. However disagreeable this mode of prolonging a business, of which we already know the issue, has been and still is personally to us, still we do not think ourselves authorized thereby to risk what we consider disadvantageous to the publick.

As circumstances have turned out, we cannot help considering it unfortunate that an express commission should have been sent to treat here. It seems to us desirable that the United States and their claims should have been as much as possible out of the view of this country whilst forming their arrangements with England. That court will certainly excite whatever alarm they can with respect to us; and this country may, under that influence and the hope of full pro-

tection and good treatment from England, do many things that she would not be willing to do hereafter, when she shall have made trial of her protectress. Between two countries, one characterized by indolence, with wealthy possessions and the desire to preserve them by monopoly, the other by commercial enterprise and insatiable avidity, it appears to us difficult to suppose that there can long remain confidence and union. Of course we should imagine Spain would be less ready to apply to England for protection against us, at any future period than the present; and at present she will be more or less ready to do it, in proportion as she may apprehend more or less from the present conduct of the United States.

Arrangements between England and Spain have for some time been negotiating, as you have been informed. Nothing has yet transpired of their particulars which can be relied on, or of the progress made in them. It seems certain, however, that these arrangements are concerting here, without the participation of the other powers already leagued and at war also against France. It is believed by some that something conclusive has been settled, and was forwarded from hence by a special messenger despatched by the English ambassador eight days ago. This, however, is only conjecture among those the most in the way of being informed. We cannot assure you of it; nor can we satisfy ourselves whether in the negotiation on foot any arrangements have been really proposed which are eventually to regard the United States and their claims with respect to the Mississippi and territorial limits. You will readily see, however, that should this country, from apprehension with respect to us, have been induced to consider such arrangements as essential, they have in their power very tempting means for procuring them.

We have had the honour of informing you in a precedent letter of the particularly hostile dispositions of M. de Gardoqui as to the rights of the United States. We have found, on the contrary, from his mode of proceeding in business of every kind, the greatest facility given to the temporizing system we have adopted. Hitherto we have followed the conferences as regularly as his ministerial occupations would admit of; and they have been employed in discussing the general subjects of our commission, waving those of the navigation of the Mississippi and limits. We shall probably not be pressed by him to come forward in a more direct way, not only because from want of order he is overwhelmed and in arrear of his department, but also because that business

affects him much more sensibly and presses him much more than that with us.

We flatter ourselves, however, that we shall ere long be relieved from this position by the receipt of your letters, which will dictate to us the line to pursue, and which we shall follow without deviation, and without regard to our own opinion. Were we allowed to consult it, it would be, that it would be most advantageous for the United States that the joint and express commission with which we are charged should be recalled, without our being obliged to press the negotiation to its end at this time; and that this court should be informed that the continuance of the negotiation was confided to their former standing representative here, or whomever the President should name for that purpose, with proper powers. In this manner it might be suspended without exciting alarm here, and pushed whenever any proper opportunity should present itself, if it should be judged most advisable to wait for that mode of obtaining the rights which we are persuaded the United States will never abandon.

In our late conferences with M. de Gardoqui, we have resumed our representations with respect to the conduct of the agents of the Spanish government in America, and particularly of the person who styles himself a commissioner of his majesty with the Creek nation. M. de Gardoqui, as we have already had the honour of informing you, opposed his denial of any such conduct of their agents to our affirmation, supported by the testimony with which you furnished us, and to which he considered very little authority as due. Since receiving the attestation with respect to Olivier, and the copy of the passport he gave, we brought forward that circumstance as being clearly authenticated by an act of his own. M. de Gardoqui assured us that he was convinced himself that no such person had been authorized; he added, however, that he would make inquiry in the foreign department. After having done this, he confirmed to us what he had previously said. We proposed that he should give us a disavowal of this commission in writing, that we might transmit it officially to the President of the United States, to which he assented with much willingness. He observed that the proper mode would be for us to write to him on the subject, to which he would give us an immediate answer, conformably to what he had expressed to us verbally.

In consequence thereof we wrote to him on the 26th ultimo, and according to his promise should have received his answer without delay. One day of conference has since in-

tervened. In it he told us he had translated our letter and submitted it to his majesty, and that he would send us the answer immediately on having received his orders thereon; still confirming what he had formerly told us with respect to the disavowal. As yet, however, we have not received it: and from Mr. Gardoqui's mode of doing business we cannot say when we shall, although we shall not cease to press on his own promise. The answer, if commensurate with our letter and conformable to his promise, will contain also an assurance of the orders given to their agents in America, and a promise of their being reminded of his majesty's intentions that they should strictly adhere thereto. Such assurances are of little importance in themselves; but these being given or withheld, and particularly the manner in which it is done, may be some indication of the ground on which they consider themselves with respect to England and us. So soon as we shall receive this answer, of whatever nature it may be, we shall not fail to transmit it to you.

The last letter which we have had the honour of receiving from you was of the 3d of November; (the duplicate only came to our hands as mentioned formerly.) What we have said will apprise you, agreeably to your desire, at least as far as we know, of what may be expected from Spain with respect to their conduct towards our Indian neighbours. Whatever assurances they may give to the contrary we believe they will endeavour to strengthen them, and make them their friends and our enemies, until the territorial and other claims shall be settled; and that, that being done, they will be indifferent as to those who remain within our limits. We have the honour to be, &c.

WM. CARMICHAEL.

WM. SHORT.

No. 1.

*Messrs. Carmichael and Short to M. Gardoqui. Aranjuez, May 26, 1793.*

SIR,—We had the honour of informing your excellency that a person of the name of Olivier had established himself in the Creek nation of Indians, and presuming to take on himself the title of an officer of his catholick majesty, and of his commissioner with that nation, had proceeded to exercise the functions of that character. It was with much satisfaction that we learned from your excellency, that no such person had been authorized by this court. Your excellency

did us the honor to tell us that you would enable us to transmit this information officially to the President of the United States. We now repeat what we have already mentioned to your excellency, that we shall be the more happy to have it in our power to do this, as it has been found that whatever influence this person may have acquired from being supposed the agent of his majesty has been employed to alter the pacifick dispositions with which it is known the justice, humanity and moderation of the government of the United States has inspired that nation in particular. We cannot forbear adding, that we persuade ourselves that measures will be taken to prevent the continuance of such an abuse of his majesty's name, and for purposes so contrary to the dispositions of his majesty.

We have taken occasion, also, in the course of the conferences which we have had the honour to have with your excellency, to notice the conduct of some of the agents of the Spanish government in America, and particularly of the Baron de Carondelet, in exciting among the Indian tribes animosity towards the United States, and in endangering thereby the peace of our citizens on that frontier. Your excellency did us the honour to assure us that such a conduct would have been in direct contravention to the orders those agents had received, and which you supposed they could not have dared to have violated. Still your excellency considered it proper that strict inquiry should be made therein; and we apprehend it will be found that they have taken on themselves to deviate from the orders they have received, at least in the instances which we have had the honour of mentioning to your excellency of furnishing those Indians with arms and ammunition as an incitement to, and for the purpose of commencing, hostilities against the United States. We flatter ourselves that when this government shall have satisfied itself of the certainty thereof, that efficacious steps will be taken for preventing a repetition of what is so contrary to the principles of good neighbourhood; and we hope that your excellency will authorize us to transmit officially assurances thereof also to the President of the United States.

We have already had the honour of mentioning to your excellency the disposition of our government on this subject; and which has induced them (as well from a desire to give proofs of their attachment to his catholick majesty, as from a regard to humanity and the interests of their Indian neighbours,) in cultivating their pacifick dispositions towards the

United States uniformly to use the same efforts in exciting in them the same dispositions towards the possessions of his majesty.

Your excellency is too well acquainted with the moral character and habits of the Indian nations, not to know with how much more facility they are prompted to hostile aggression, even against their manifest interests, than withheld therefrom. We trust therefore you will think with us that it will be for the interest as well of his majesty's subjects, as of the citizens of the United States, and the Indians themselves, that both governments should agree on rules for frankly co-operating in disposing to the arts of peace and civilization such of those nations as inhabit within their respective territories or on their frontiers. We have postponed as yet bringing forward this subject, as appearing naturally connected with the final arrangements of the territorial limits. When this shall be settled we flatter ourselves there can remain no difference of opinion as to the conduct to be held towards their Indian neighbours by two governments which will unite in adopting humanity and justice towards them as the rule of that conduct.

With sentiments, &c.

WM. CARMICHAEL,  
W. SHORT.

His Excellency Don Diego de Gardoqui,  
Minister of Finance, &c. &c. &c.

*Mr. Short to the Secretary of State. Madrid, July 1, 1793.*

SIR,—The court having determined to transfer its residence from Aranjuez to this place, I preceded it four days ago with the members of the corps diplomatique.

I had the honour of writing to you last on the 7th of June. That letter was sent by a person going from hence to England, who was to forward it from Lisbon or England, as he should find best, together with a joint letter from Mr. Carmichael and myself. As copies of these letters were sent, also, by the same conveyance from hence, I flatter myself you will have received them in due time.

In my last I had the honour of mentioning to you the information I had received with respect to the intention of this government as to New Orleans. An ordinance on the subject has been since printed, in date the 9th of June. This is the date of its being passed; its impression is later; and though now printed, it will not be published perhaps for

some time, according to what I am told is the usage here. A copy has been lent me on the condition of my returning it immediately. Not having time to translate it at full length, I have extracted from it the most important parts which I here enclose to you.

I mentioned to you in my letter of the 7th of June, that one of the objects of this plan was to supply the Spanish possessions from New Orleans with such goods as they might choose to admit. I find, however, I was misinformed in this, as one of the articles of the ordinance prohibits communication between New Orleans and their other American possessions. I am well assured now that the plan has been adopted at the earnest solicitation of the inhabitants of Louisiana and the Floridas, and will no doubt give them very high satisfaction. The ground of their demand is their being for the present deprived of their commerce with France.

The ordinance is stated to be a temporary one, and it is said is to continue only until the minister shall have matured and brought forward a new and general system of commerce, on which he has been for some time meditating. I hardly expect, however, this will take place very soon; nor do I know of what nature it is to be. Such as it may be, you will of course be informed of it by your agent at this place. I have the honour to be, &c. W. SHORT.

*Extract of an Ordinance for regulating, provisionally, the Commerce of Louisiana and the Floridas. June 9, 1793.*

THE preamble states, that the inhabitants of Louisiana, being deprived of their commerce with France (on account of the war) as allowed by the ordinance of January, 1782, and his majesty considering that they and the inhabitants of the Floridas cannot subsist without the means of disposing of their productions, and of acquiring those necessary for their consumption; for that purpose, and to increase the national commerce, the commerce of those provinces and their agriculture, has directed the following articles to be provisionally observed.

The inhabitants of the above mentioned provinces be allowed to commerce freely, both in Europe and America, with all friendly nations who have treaties of commerce with Spain; New-Orleans, Pensacola and St. Augustine to be ports for that purpose. No exception as to the articles sent or to be received. Every vessel, however, to be sub-

jected to touch at *Corcubien in Galicia or Alicante*, and to take a permit there, without which the entry not to be allowed in the ports above mentioned.

The articles of this commerce carried on thus directly between these provinces and foreign nations to pay a duty of 15 per cent. importation, and 6 per cent. exportation, except negroes, who may be imported free of duty. The productions and silver exported to purchase those negroes to pay the 6 per cent. exportation duty; the exportation of silver to be allowed for this purpose only.

The commerce between Spain and those provinces to remain free. Spaniards to be allowed to observe the same rules and to fit out from the same ports (in vessels wholly belonging to them without connection with foreigners) for those provinces, as for the other Spanish colonies.

To remove all obstacles to this commerce, all sorts of merchandise destined for Louisiana and the Floridas (even those whose admission is prohibited for other places) may be entered in the ports of Spain; and in like manner tobacco, and all other prohibited articles, may be imported into Spain from those provinces, to be re-exported to foreign countries.

To improve this commerce and encourage the agriculture of those provinces, *the importation of foreign rice into the ports of Spain is prohibited*; and a like preference shall be given to the other productions of those provinces, when they shall suffice for the consumption of Spain.

All articles exported from Spain to those provinces shall be free of duty on exportation; and such as, being foreign, shall have paid duty on importation into Spain, shall have it restored to the exporters.

These foreign articles, thus exported, to a duty of 3 per cent. on entry in those provinces; those which are not foreign to be free of duty.

The articles exported from those provinces to Spain to be free of duty, whether consumed in Spain, or re-exported to foreign countries. Those Spanish vessels, which, having gone from Spain to those provinces, should desire to bring back productions from thence directly to the foreign *ports of Europe*, may do it on paying a duty of exportation of 3 per cent.

All vessels, both Spanish and foreign, sailing to those provinces, to be prohibited from touching at any other port in his majesty's American dominions.

No vessel to be fitted out from New Orleans, Pensacola, or St. Augustine, for any of the Spanish islands or other dominions in America, except for some urgent cause ; in which case only the respective governour to give a permission ; but without allowing any other articles to be embarked than the productions of those provinces.

All foreign vessels, purchased by his majesty's subjects and destined for this commerce, to be exempted from those duties to which they are at present subjected, they proving that they are absolute and sole proprietors thereof.

*Messrs. Carmichael and Short to the Secretary of State. Madrid, August 15, 1793.*

SIR,—In our last letter of the 6th of June we had the honour of informing you of our having written a letter to Mr. Gardoqui, on the 26th of May, agreeably to his desire, and in consequence of his promise to give us an immediate answer to be transmitted officially to the President of the United States.

That answer, though promised to us daily at every interview, was daily postponed until the court began to prepare for their departure from Aranjuez ; on account of its being necessary, as he informed us, to concert the answer, for form sake, with the foreign department. From that time we were assured we should have it on their arrival at Madrid, and then, as is done with all business, it was delayed for some time on account of papers not being unpacked. After this he came to what is considered the last step in the procrastinating routine, viz. to desire us to write to him again on the subject, observing that that would enable him to push the foreign department.

In consequence, therefore, we wrote to him our letter of July the 15th. On the 5th of August we received his answer, which was dated the 1st of the same month, probably by mistake, as it must have got to our hands in an hour after coming from his. On the 11th we replied thereto, previously to his leaving this place for St. Ildefonso on the 13th. We do ourselves the honour to enclose you copies of these several pieces, Nos. 1, 2, 3, and 4. As we consider it proper to send them by duplicate, we hope you will excuse one of the copies being from the press.

They will render any comment on our part unnecessary ; except as to M. de Gardoqui's answer being so different

from what we had expected. The only external cause to which we could have attributed it would have been what we mentioned in the last page of our letter of June the 6th. There are some circumstances, however, which induce us to believe that the ground there mentioned is not at present as agreeable here as it was expected it would be. Although this ground may become more favourable, yet from what has hitherto taken place we should rather imagine now that the difference between Mr. Gardoqui's written and his verbal answer, may have proceeded from his having been in an error himself, at first, as to this commissary, and having been confirmed in it also, perhaps, from his first inquiry from the minister of foreign affairs. For it appears to us at least as likely that this minister should be ignorant of the existence of that commissary as M. Gardoqui, who is in correspondence with the Spanish agents in America, and who, from the time of his being named to treat with us here, would naturally have been informing himself on all these subjects. And he acknowledges in his letter his having told us of his own ignorance of a commissary having been employed among the Indians.

Our letters will have informed you of the conduct we had determined to pursue with respect to the negotiation with which we are jointly charged, and of our reasons therefor. It appeared to us at that time unquestionable that you would do us the honour to write to us immediately on your being informed of the circumstances therein attended to; and from our idea of the time you would have received that information from the persons there mentioned, it seemed to us certain we might expect your letter before any considerable lapse of time. We have gone on with some degree of impatience and anxiety under this expectation until now, and although we have not had the honour of receiving from you the orders expected, yet we had been so firmly persuaded that you would have thought it necessary to have written to us after the circumstances above mentioned, although it should have been merely to have expressed that they had occasioned no change in the President's intentions; that we continued to impute our not hearing from you rather to the accident of the sea, than your not having written.

After so long a delay we have begun to be less easy about your opinion as to the propriety of the line we have adopted, although our own sentiments on that subject remain the same with those we have hitherto expressed to you. Being persuaded, however, that whilst the court resided here it would

be impossible for the minister to enter seriously on the business, we have considered it best not to bring it forward before their being settled at St. Ildefonso, as this will still give us a further opportunity of previously hearing from you. They arrived at that place on the 13th, and we are now about to follow them. From the considerations above mentioned, and our present view of circumstances, we have determined whilst there to proceed to the discussion, if we should have received no letter from you. We should add, however, that we have no reason whatever to suppose the result will be different from what we have formerly announced to you.

We have thought it proper to give you this previous notice of our intention; and we shall also do ourselves the honour of writing to you immediately on any step being taken in consequence thereof.

This letter will be sent by post, and will carry you assurances of the profound respect with which we have the honour to be, &c.

WM. CARMICHAEL,  
WM. SHORT.

*Messrs. Carmichael and Short to M. Gardoqui. Madrid,  
July 15, 1793.*

SIR,—We had the honour of addressing your excellency, on the 26th of May last, relative to a person of the name of Olivier, who had established himself in the Creek nation of Indians, and taken on himself the title of an officer of his catholick majesty, and of his commissioner with that nation; and also with respect to the conduct of some of the agents of the Spanish government in America.

We then flattered ourselves, from the previous conversation which we had the honour to have with your excellency, that the answer to that letter could meet with no delay. Notwithstanding the time which has since elapsed, we have hitherto forborne to trouble your excellency with a second letter on the subject, because in the frequent occasions we have taken of speaking with you thereon, your excellency has always done us the honour to inform us that the answer to that which we had written was delayed only by form, and that we might count on receiving it.

At present we take the liberty of recalling the subject to your excellency's mind, begging leave to refer you thereon to our above mentioned letter. We remain persuaded that your excellency will continue to think it proper that we

should be enabled as soon as possible to transmit officially to the President of the United States those assurances which your excellency did us the honour to give us verbally, and particularly as it will be a new proof of the friendly sentiments of his majesty at a time when the animosity of several Indian tribes, otherwise pacifically disposed, has been excited against the United States by persons who have exhibited themselves as acting under the authority of this government. We have the honour, &c.

WM. CARMICHAEL.

WM. SHORT.

His Excellency Don Diego de Gardoqui,  
Minister of Finance, &c. &c.

### No. 3.

*Translation of a Letter from Diego de Gardoqui to Messrs. William Carmichael and William Short. Palace, August 1, 1793.*

GENTLEMEN,—Being now furnished with the information necessary to answer your office of the 26th of May last past, I will do it with the sincerity which forms my character, and which you deserve. Permit me, however, to rectify the idea, inexact and equivocal, which I observe in the said office; and which I cannot but controvert, because it is necessary to fix the true sense of my explanations, to which you refer.

You begin by saying that I declared to you that our court had not authorized Mr. Olivier, nor any other person, to exercise the functions of agent or commissary of his catholick majesty with the Creek Indians; and that I would enable or authorize you to give this notice officially to the President of the United States.

I confess ingenuously that I do not recollect to have made such an assertion, although I have perfectly in my mind all which was discussed of in our various conversations. What I declared to you was that I did not know that his majesty had the commissaries which you mentioned, although I by no means could offer to enable you to make a declaration which might assure the President, this being the particular business of the minister of state. By the documents which have since come to my hands I am every day more and more confirmed in what my residence in that country proved to me continually, and it is, that the commissaries themselves of the United States are continually making suggestions which are untrue, and contrary to the good understanding

which ought to prevail, and which happily is observed between the two governments, interpreting unfavourably the most sincere measures of our agents and the most innocent acts of the governour of Florida, as has happened probably with Mr. Seagrove, who has been the origin of this business, by having fomented the hatred and enmity of those nations against Spain, with which your constituents know that the same Indians have made a solemn treaty in the beginning of the year 1784, in which they acknowledge his catholick majesty for their only sovereign protector.

In consequence of this treaty with those nations, the governour of West Florida was in duty bound to take convenient measures to assure the observance of the compact, by naming a person who might reside among them for the purpose of keeping them in peace, and who might equally take care to counterwork the designs of some who in fact have endeavoured to separate them from their alliance with Spain, as it appears to us that the commissary Seagrove has done; while the agents of our court have omitted no means of keeping them in peace, exerting their utmost force to dissuade them from their resolution which they had formed the last year of commencing hostilities against the state of Georgia, to recover the lands which that state had usurped from them.

This fact that our government restrained those Indians, when they intended to attack the said state, must be known to Mr. Jefferson, by the office which the charge of his catholick majesty transmitted him, accompanying it with an extract of a letter of the 24th September of the last year, written by the governour of Louisiana, of which you are naturally informed.

From what is said may be inferred how far the agents of our court have been from promoting the hatred of those nations against the United States. However, the demarcation of boundaries being one of the principal causes of the complaints which are always occurring on the one side or the other, it is to be hoped that when this point shall be settled, these differences will cease and be cut up by the roots, as on repeated occasions I mentioned to President Washington, treating on the same business.

In the mean while I have only to add, that you may assure your constituents that the king has given and will give the strictest orders to our agents to avoid every ground of complaint on the part of the United States, with whom he desires to preserve the greatest harmony, and to concur in

the reciprocal interests of both governments, restraining the said nations from all hostile intentions against their neighbours, as is proved to have been done hitherto. I renew my sincere esteem, &c. DIEGO DE GARDOQUI.

*Messrs. Carmichael and Short to M. Gardoqui. Madrid, August 11, 1793.*

SIR,—The letter which your excellency did us the honour to address us the 1st instant, in answer to ours of the 26th of May, was put into our hands the 5th.

We have considered it with that attention which is due to whatever comes from your excellency, and we find ourselves obliged candidly to own our surprise as well as our mortification at learning from your excellency that we so completely misunderstood what passed at the conferences which preceded our letter of the 26th of May, and occasioned its being written.

Your excellency will unquestionably recollect our having, on different occasions, represented to you the conduct of the agents of the Spanish government in America, in exciting the animosity of the Indian nations against the United States. As your excellency seemed to consider very little credit due to the proofs which we adduced thereof (though founded on the solemn attestations of those most in the way of being informed, and though corroborated by the subsequent conduct of the Indians) we mentioned the case of the person named Olivier, with respect to whom there was testimony, of a different kind at least, of his having established himself in the Creek nation, and taken on himself to act as his majesty's commissary there.

On your excellency seeming to doubt the existence of such a character, we informed you that we had in our possession a copy of a passport which he had given as commissary of his catholick majesty. Your excellency then added, that as for your own part you knew of no such person being authorized by your court, and did not believe that any such had been authorized; but that you would make inquiry thereof in the foreign department; for which purpose we furnished you, agreeably to your desire, with a copy of the passport, containing the style and title of this agent.

At a future conference your excellency informed us, as we understood you, that you had made that inquiry, and confirmed to us that no such agent had been employed by this court.

On our mentioning to your excellency our desire to receive this in writing, that we might transmit it officially to the President of the United States, you assented instantly, adding yourself that the proper mode would be for us to pass you an office on the subject, to which you would give us an answer conformable to what you had expressed to us verbally. We accordingly the next day, in conformity to the suggestion of your excellency, addressed you our letter of the 26th of May, in which we endeavoured to adhere literally to the demand which your excellency had authorized us to make.

We have thought it proper to recall these circumstances to your excellency's recollection in the order in which they occurred; and we think your excellency will agree, that it would have been difficult for us to have derived from them any other idea than that which we had the honour to express in our letter of the 26th of May. It being our desire, however, as well as our duty, to make the President of the United States as fully acquainted as we can with the sentiments of this court on that subject, we shall not fail to transmit to him, for greater exactitude, a copy of your excellency's letter.

We cannot forbear in the mean time noticing several parts of it, and particularly those most connected with the subject above mentioned.

Your excellency does us the honour to inform us that an agent has been named to reside with the Indians, and that in consequence of the treaty formed between Spain and them in the year 1784, by which they acknowledge his catholick majesty for their only sovereign and protector. The contents of that treaty having never been made known to us, we can say nothing with respect to it. We take it for granted, however, that it must have been intended to apply to such tribes as inhabit within the dominions of his catholick majesty. To pretend that one sovereign has a right to treat with persons inhabiting within the territory of another, and to take those persons under his sovereignty and protection, would be so contrary to the established laws of nations, and so subversive of all social order and government, that we must suppose this court would be less disposed than any other to admit of such a precedent.

Your excellency will readily see that such a system, being adopted by one party, would give the other an unquestionable right to make use of it also; the consequences of which it is unnecessary for us to suggest, because they will present themselves as fully to your excellency as to ourselves, and

because we are convinced all his majesty's ministers would be as far from countenancing so destructive a system as the government of the United States have been. The conduct they have observed in this respect is well known to your excellency. In their treaty with the Creek nation (which was immediately rendered publick and notorious to all by the way of impression, and of which we put a copy into the hands of your excellency,) you will have observed they confined their protection expressly to those inhabiting within the limits of the United States.

Another motive which your excellency gives us for establishing a commissary among the Indians was to counteract the designs of such persons as had attempted to separate them from their allegiance with Spain, and nominatively Mr. Seagrove.

As to the alliance, we can add nothing to what we have said above, and for the reason there mentioned. But with respect to Mr. Seagrove, we repeat here, what we have often had the honour of mentioning to your excellency, that our agent with the Indians bordering on the territories of Spain has a standing instruction to use his best endeavours to prevent them from committing acts of hostility against his majesty's dominions. And we know so fully this to be the decided will of our government, that we do not scruple to say that if Mr. Seagrove, or any other agent, should have acted contrary thereto, they will, on its being made appear to them, so conduct themselves towards those agents as to give an unquestionable proof of their determination to have that will fully complied with. And here it will not escape your excellency how much more facility you would have in establishing the proof of any improper conduct in the agents of the United States than we have under similar circumstances with respect to those of Spain. The situation of our government, and their immediate communication with the scene, exempting them from the necessity of applying for information with respect to complaints of this kind to the very agents complained of.

The same situation would prevent the President of the United States from being led into error by the agents he employs with the Indians, if, as your excellency informs us, they were to be making suggestions contrary to truth and the good understanding which happily subsists between the two governments.

Your excellency does us the honour also to inform us that the agents of your government had dissuaded the Indians

from the resolution they had taken last year of commencing hostilities against the state of Georgia in order to recover the lands which they had usurped from them. And your excellency adds, that it is to be inferred from thence how far these agents have been from exciting the animosity of the Indians against the United States.

It was unknown to us that the state of Georgia had usurped those lands from the Indians. On the contrary, the treaty above mentioned will have shown your excellency that these Indians had, for stipulated sums, alienated whatever claim they might have to occupy the lands within the bounds there agreed to, and which were to be marked in such a manner as to be visible to all parties, and to prevent usurpation on all sides. The United States have been ever since disposed to mark that boundary in the manner agreed on; and we can hardly suppose that any of the citizens of the United States would have ventured to have transgressed it.

There is one error into which we find your excellency has been induced, and which we consider it our duty here to mention: namely, that it had been shown to Mr. Jefferson by the office of his majesty's charge des affaires, accompanying an extract of a letter from the governor of Louisiana, that the Indians had been restrained from attacking the United States. We were informed, on the contrary, by that minister, that this was so far from being the case that at that time they had invaded our frontier in force.

It is useless to add, that an invasion which had taken place cannot be said to have been prevented; and we trust your excellency will agree with us, that the conduct of your agents being thus different from what they had represented it to be, the inference proposed cannot be considered as derivable therefrom.

We have repeatedly had the honour of mentioning to your excellency what their conduct in general had been, and that of the governor of Louisiana in particular. We have never failed to add at the same time what we repeat here, that the government of the United States remained in the full persuasion that this was without the knowledge, and contrary to the intentions of this court. It was in consequence of this persuasion that we were instructed to enter into the most friendly expostulations with you on the conduct of those agents. We accordingly did it, and stated (what we again beg leave to observe we were authorized by the Secretary of State to do) that the Baron de Carondelet had excited the Indians to war on us; had furnished them with abundance of

arms and ammunition, and promised them whatever more might be necessary. After having brought this conduct to the knowledge of your excellency, and in such a manner as to shew the full reliance of the United States on the friendly dispositions of his catholic majesty, we trust your excellency will agree that they are entitled to expect that the event should show that adequate measures have been taken to prevent these agents from a future deviation from the intentions of this government.

We persuade ourselves, with your excellency, that when the demarcation of the limits shall be settled, all differences will be eradicated ; and we do not doubt that your excellency will be of opinion that, in the mean time, and until so desirable an event shall have been attained, every step should be taken by both governments, with sincerity and good faith, to prevent grounded complaints on either side. With sentiments, &c.

WM. CARMICHAEL,  
WM. SHORT.

*Mr. Short to the Secretary of State. St. Ildefonso, August 20, 1793.*

SIR,—This letter is merely to enclose you a copy of the convention between this country and England. For what reason I know not an uncommon degree of secrecy has been observed with respect to it, even since its being signed ; and as yet very few persons even of the corps diplomatique have had a sight of it, or have ever known with certainty whether any such convention was really signed, although it has been suspected by most of them that something had been concluded on between the two countries.

Although it is probable it will be published in England, and thus get to you sooner by that route, still I have thought it proper, by way of precaution, to send you the copy which the departure of the post has barely allowed me time to take. I shall by the next post forward it to you by duplicate.

It would seem that the usual language of such pieces had been abolished, as it was signed I believe only in Spanish and English ! I have only seen it in the former. It was communicated to me as a mark of particular friendship and confidence by a person whose name I am not at liberty to mention, and which of course would be useless. I have the honour to be, &c.

WM. SHORT.

*Translation from the Spanish of a Convention between Spain and Great Britain, signed at Aranjuez, May 25, 1793.*

THEIR catholick and Brittanick majesties, having resolved, on view of the present circumstances of Europe, to establish a mutual confidence, friendship and good correspondence, by means of a provisonal convention, until they shall perfect entirely the solid system of alliance and commerce which they so much desire to establish between them and their respective subjects, have named and authorized for this purpose, viz. his catholick majesty the duke de la Alcudia, &c. and his Britannick majesty lord St. Helens, &c. who, after having communicated in due form their full powers have agreed upon the following articles.

Article 1. The said kings will employ their greatest attention, and all the means in their power, to re-establish the publick tranquillity and to support their common interests, and they promise and oblige themselves to proceed perfectly in concert and with the greatest confidence, for the establishment of these salutary ends.

Art. 2. As their said majesties have had just grounds of jealousy and inquietude for the security of their respective states, and for the preservation of the general system of Europe in the measures which for some time past have been adopted in France, they have agreed and established between themselves an intimate and entire concert as to the means of opposing a sufficient barrier to those views so prejudicial of aggression and aggrandizement ; and France having declared an aggressive and unjust war as well against his Britannick majesty as against his catholick majesty, their said majesties oblige themselves to make common cause in this war. The said high contracting parties will concert mutually whatever may be relative to the succours which they are to give the one to the other, as also the use of their forces for their respective security and defence, and for the good of the common cause.

Art. 3. In consequence of what is provided in the preceding article, and to the end that the Spanish and British vessels may be mutually protected and aided during the present war, as well in their navigation as in the ports of the two high contracting parties, their catholick and Britannick majesties have agreed and do agree that their squadrons and vessels of war shall give convoy without distinction to the merchant vessels of their nations in the manner established for their own, as far as circumstances will permit ; and that

as well the vessels of war as the merchant vessels shall be admitted and protected in the respective ports, facilitating to them the succours which they need at the current prices.

Art. 4. Their said majesties oblige themselves reciprocally to shut all their ports to the French vessels, not to permit that in any case there shall be drawn from their ports for France warlike or naval stores, nor wheat, nor other grain, salted meats, nor other provisions; and to take all the measures which are in their power to injure the commerce of France, and to reduce her by that means to just conditions of peace.

Art. 5. Their said majesties oblige themselves, equally, in as much as the present war is of common interest to every civilized country, to reunite all their forces in order to hinder the powers which take no part in the war from giving, in consequence of their neutrality, any protection, direct or indirect, on the sea or in the ports of France, to the commerce of the French, or to any thing which belongs to them.

Art. 6. Their said catholick and Britannick majesties promise, reciprocally, not to lay down their arms, unless it be by common consent, without having obtained restitution of all the states, territories, countries and places which may have belonged to the one or the other before the beginning of the war, and of which the enemy may have possessed himself during the course of hostilities.

Art. 7. If the one or the other of the two high contracting [parties] shall be attacked, molested or inquieted, in any of their states, rights, possessions or interests, in any time or manner whatsoever, by sea or by land, in consequence or in hatred of the articles or stipulations contained in the present treaty, or of the measures which shall be taken by the said contracting parties in virtue of this treaty, the other contracting party is obliged to succour and make common cause with him in the manner which is stipulated by the preceding articles.

Art. 8. Relates to the ratification which is to be exchanged in six weeks.

[L. S.]

[L. S.]

THE DUKE DE LA ALCUDIA,  
ST. HELENS.

*Messrs. Carmichael and Short to the Secretary of State. St. Lorenzo, Sept. 29, 1793.*

SIR,—The despatches which you forwarded by Mr. Blake having been delivered to us, we think it proper to make use of the first conveyance to announce it to you. This being by the ordinary post, we shall send two copies of this letter by

to-morrow's mail, being the first for Cadiz and Lisbon. Mr. Blake arrived at Madrid on the 24th instant. The court was to come the next day from St. Ildefonso to this place. Mr. Carmichael's indisposition prevented his proceeding here in company with Mr. Blake until the day before yesterday, when he arrived and found the other commissioner, who had come directly to this place from St. Ildefonso. We immediately proceeded to take a joint communication of your several letters of May 31, June 30, July 12, and 16, and the papers they respectively enclosed; and have since then been employed in weighing them with the most anxious care and attention.

It is with a mortification which you will easily conceive that we have observed that none of our letters had been received by you so low down as the departure of Mr. Blake. Those written February 19, April 18, and May 5, we might have hoped would certainly have got to your hands before that time, and possibly that of June 6th. The three first were sent by duplicates, and the fourth by triplicate. They were prolix in the extreme, and gave you a full account of all that had taken place, and of all we knew or expected. Nothing has since occurred to change our opinions or expectations on those subjects, nor can we yet add any thing of importance to what we then said. Taking it for granted that some of the copies of these letters will have been received, we think we cannot do better by this conveyance than to confirm what we therein said.

Although nothing new occurred after the first conferences, of which we rendered you a full account in our letters of April 18, and May 5, yet we should have written more often merely to have repeated their contents had such conveyances as we could with propriety have made use of occurred more often.

This however was not the case, and as the conveyances did not depend on us, the two letters above mentioned were delayed thereby after having been written.

Nothing in the bosom of futurity appeared to us more inevitably certain than that you would consider it indispensable to write to us after having received information which we knew would get to you from others previous to the receipt of our letters; and that expectation had the influence on us which we have formerly mentioned to you. Until Mr. Blake's arrival, however, we have not had the honour of receiving a single line from you since your letter of Nov. 3, 1792. We received the gazettes as low down as January 1, and three

of the month of April, except which we have remained in an ignorance of what was passing in the United States to a degree which added beyond measure to our embarrassment.

We had the honour of writing to you also, on the 15th of August, enclosing copies of letters which had passed between M. de Gardoqui and ourselves. The intention which we therein announced to you for St. Ildefonso was changed after our arrival, for the reasons which we shall mention by another conveyance. Those matters remain therefore *in statu quo*.

We shall immediately proceed to lay before M. de Gardoqui the substance of your letter, and will endeavour to get his answer in time to despatch Mr. Blake by the middle of October. Our experience, however, of the delay generally used by no means allows us to be sure of it. An answer to the subject contained in your letter is all that you can expect by him. Nothing new will be known with respect to the subjects of our former letters to you, or at least nothing more favourable than what we then mentioned to you.

Col. Humphreys wrote us some time ago that he had received from you two letters for us, which you desired he might entrust to some person of confidence, and that not having found such an one to forward them by, he should leave them on his departure with Mr. Church, the consul, to forward them if a proper conveyance should present itself, or if not, to take our orders thereon. As you did not direct col. Humphreys to send a special messenger with them, we fear to do it, being unacquainted with the nature of their contents, and the expense being considerable. We know not therefore when or how we shall receive those letters, but hope Mr. Church will find out some means of conveying them to us by some person of confidence coming from thence.

\* You will have received the convention between England and Spain; we think you may be as sure it will be interpreted in its most extensive sense, [1] and that a rupture with either party, for any cause however different from those expressed, would be made common to both.

Naples has joined the league against France by a convention of the month of July. It is thought that their succours and the Piedmontese troops are by this time at Toulon. We have the honour to be, &c.

WM. CARMICHAEL,

WM. SHORT.

P. S. The treaties alluded to in your letter of May 31, were not enclosed as announced by you.

\* This passage written in cyphers. [† Here are inserted the following figures and word, the meaning of which the publishers do not understand, "grew"]

*Articles of Convention Treaty and Pacification stipulated and agreed on by the Spanish Nation with the Talapuche Indians at the Congress held for this Purpose in the Fort of Pensacola, the Capital of West Florida, on the 31st Day of May and 1st of June, 1784.*

IN the name of God Almighty. Be it known to all to whom these presents come or may come. That we don Stephen Miro, colonel of the regiment of infantry established in Louisiana, and commandant charged with the civil and military government of that province, by order of his excellency the count de Galvez, lieutenant general of the royal armies, governour and captain general of the provinces of Louisiana and West Florida, colonel don Arthur O'Neill, governour civil and military of this town of Pensacola, don Martin Navarro, intendant general of the said provinces, and Alexander McGillivray, principal representative of the towns of the Upper Talapuches, Middle Talapuches, and Lower Talapuches, called Seminoles or Wanderers, the Savanas or Joannis, and part of the Natchez and Chickasaws; stipulating in the name of all in general, and particularly for Abueg-le, principal chief of the four towns of Talasie, Ysacho, or the mad dog chief of the town of Tocopaaché, Mecko Apohega of that of Hudco-caye, Taske Ohuina of that of Sihilabe, Opayaacho, of that of Pakana Tahalaché, Taskikina, of that of Crevale, Oeragula, of that of Ataché, Opayé Mecko, of that of Ochiao, Nenni Guaquichi, of that of Edomé, Mecko Deteski, of that of Mongulaska, Paychaché, of that of Oyocoské, Opeztlé, of that of Yosata Ayufalaacho, of that of Taskiki Acca, Niacho principal chief of Abecuchi and three towns of Abecas, Opayé of that of Statelocalgo, Niachumaetao-payé, of that of Uhihuoca, or the waters which follow, with the towns of Alibamas, Conchatis, and Tauachas, and the towns of Osashe, Taskeys Tehouacale, or the middle road, Canauatke or Tetuchina, Touchatchie, Otasie, Sougaatché all Upper Talapuchy towns; which chiefs with many others remain in the nation having given consent to whatever the above said Alexander McGillivray shall do and treat, who treats also in the name of Yahula Mecko principal chief of the three towns of Cahuitas in the Middle Talapuches, of Pisto Mecko principal chief of the towns of the Uchises, Chahuapé, of that of Stlecaasa, Cycotle Mecko, of that of Echité Cachita Mecko, of that Cachita Sincheis Mecko, of that of Apalechocola; from Uoloche, and of the towns of Chapeache, Oconé Lower Talapuches or Seminoles, of Usa-

tastanequé, or war dog chief of the town of Natchez, of Chickasaw Mingo, of that of the Chickasaw retired arrow the Talapuchy. In the name also of various other towns, chiefs, captains and warriors not present, their wives and children, and of all the nation in general, desiring unanimously to obliterate the remembrance of the evils caused by the last war, and to make all the subjects of his catholick majesty enjoy the fruits of peace, to conclude and cement on the most solid foundations the friendship and good union which the Spanish nation proffers to the Talapuchy tribes, have agreed on the following articles.

Article 1. We the said chiefs of the Talapuchy nation, for ourselves and in the name of the other chiefs, captains, warriors, and other individuals of whatever quality, sex or condition they be, promise and engage ourselves before the Supreme God, creator of the heaven and earth, to whom are subject all things visible and invisible, to keep and maintain an inviolable peace and fidelity with his catholick majesty, his provinces, subjects and vassals, procuring to ourselves reciprocally whatever advantages may contribute to the interest and glory of both the contracting parties. We undertake to expose, for the royal service of his catholick majesty, our lives and fortunes; and we promise to obey the sovereign orders which in a case of necessity shall be communicated to us by the captain general of the provinces of Louisiana and Florida, and in his name, by the respective governours or particular commanders of said provinces, conducting ourselves always with the greatest harmony, union and friendship: moreover, from this instant of our proper and spontaneous will, we promise to obey the laws of the great king of the Spains, in those points which are compatible with our character and circumstances, conforming ourselves to the usages and municipal customs which are established and hereafter shall be established in the provinces of Louisiana and both Floridas, regulating in every thing of common accord and in good faith the difficult points which may need explanation.

Art. 2. To correspond on the part of his catholick majesty to the confidence which merits the worthy and honourable chiefs of Talapuchy nation, and the others who are in the lands conquered by the arms of his majesty, we the above named don Stephen Miro, deputy governour of the province of Louisiana, don Arthur O'Neill, commandant of the fortress of Pensacola, and don Martin Navarro, intendant general of both provinces, promise, in the name of the king, to propor-

tion among the contracting nations a commerce permanent and unalterable, unless the inevitable event of war impedes the exact fulfilment of this promise, at the most equitable prices; to which effect there shall be formed by agreement of both parties, conjointly, in this present congress, corresponding tariffs or regulations by which the mutual traffick shall be fixed, and which shall be inviolably observed by the individuals of the contracting parties with the most religious scrupulousness.

Art. 3. To encourage more and more commerce and agriculture, the Talapuchy nation shall establish a general peace with the nations of Chickasaws, Chactaws, and others of the continent, ceasing all kind of hostility, forgetting all the past, and living in the greatest harmony. The disturber of these good dispositions and desires shall be considered as an enemy of the publick tranquillity of mankind, and of the contracting parties.

Art. 4. We the already mentioned chiefs of the Talapuchy nation, as often as any stranger shall introduce himself into our towns with the insidious idea of inducing us to take up arms against our sovereign the great king of the Spains, his vassals, and allies, oblige ourselves to arrest him, immediately, submitting him to the disposal of the governour of Pensacola, without that, that his having been taken within our possessions, shall serve him as an immunity from punishment.

Art. 5. We will not admit into our towns any white person of what nation soever he be, without any distinction (whether it be under the pretext of commerce or other pretence) who shall not bear the correspondent passport of these provinces, or in particular of this fort.

Art. 6. In pursuance of the humanity, and corresponding to the generous sentiments of the Spanish nation, we renounce for ever the practice of taking scalps, or making slaves of the whites, and in case that an unexpected war against the enemies of his catholick majesty should put us in the case of making any prisoner, we will treat him with that hospitality which corresponds in imitation of the civilized nations, exchanging afterwards with an equal number of Indians, or receiving in place thereof the quantity of merchandise which shall be previously stipulated, without committing on any of the said prisoners of war the least attempt on their life.

Art. 7. We will deliver in good faith to the order of the governour general of these provinces all the white prisoners subjects of the United States of America, if it be found that

there is any one detained, and we will not exact for them any reward.

Art. 8. We will not admit deserters nor negro nor mulatto slaves, fugitives (amarones) of the provinces of Louisiana and Florida into our establishments, and those who shall present themselves within them, shall be immediately [apprehended] with us at the orders of the governour, satisfaction being made us for the apprehension by the corps, if the person apprehended be a soldier, or by the master to whom he belongs, if he be a slave.

Art. 9. We will prevent our people, by all means possible, from committing any theft of horses or cattle of whatsoever kind they be; and those which shall be met with stolen, in whatsoever place it be, shall be returned with good faith, whenever they shall be reclaimed by the parties interested, who shall be under the necessary obligation of proving before the governour, or chiefs of the towns in which they shall be, the property of the prize demanded.

Art. 10. We will afford to the Spanish traders, who may go with the respective licenses of the governour to trade in our towns, all the protection and assistance which they may want, observing our contracts according to good faith, and the rules of the tariff, of which they shall deliver us the necessary copies.

Art. 11. As the traders ought to establish themselves within the towns, we will not permit them to do it secretly, fixing their magazines in the woods and other private places, to the end to avoid by these means, the disorder which a like abuse and mal-practice would occasion. If any one shall contravene this article, we will give notice thereof to the chief of the place, that he may take the measures which he may esteem necessary.

Art. 12. To maintain the orders exacted by reason, equity and justice, the principal basis of this congress, and on which depend our lives and properties, as well as the tranquillity of our towns, whenever any individual of our nation shall commit the horrible and detestable crime of murder on the person of any subject of his catholick majesty, we oblige ourselves to deliver the head of the aggressor. In mutual consideration of which, we the said deputy governour and the respective commandants of these provinces oblige ourselves that when the same case shall happen by the subjects of his catholick majesty, we will punish the delinquent conformably to the laws of our kingdoms, in presence of the chief of the sufferers.

Art. 13. As the generous mind of his catholick majesty

does not exact from the nations of Indians any lands to form establishments to the prejudice of the right of those who enjoy them, in consequence and with a knowledge of his paternal love towards his beloved nations, we promise in his royal name the security and guaranty of those which they actually hold, according to the right of property with which they possess them, on condition that they are comprehended within the lines and limits of his catholick majesty our sovereign. And to make more evident the extent of his royal clemency, whenever by any war or other accident the Talapuches may be dispossessed of their lands by the enemies of the crown, there shall be granted to them others equivalent which may be vacant, for their establishment, without other concern or retribution than that of their constant fidelity; and for the proof, accomplishment and entire observance of this, while the royal approbation of his majesty shall be solicited to whom I the said deputy governour of Louisiana will send it, we the said governour and intendant, with the said Alexander M'Gillivray, informed of the whole by the means of a literal and exact translation, which for this purpose was reduced by don Juan Joseph Duforet, captain of the militia of Louisiana and interpreter of the English idiom for his said majesty in the said province, have signed these presents and sealed the same with the seal of our arms, and countersigned by the underwritten secretary of the government and captain general of the provinces of Louisiana and West Florida, in the fort of Pensacola, the first of the month of June, in the year 1784.

STEPHEN MIRO,  
ARTHUR O'NEILL,  
MARTIN NAVARRO,  
ALEXANDER M'GILLIVRAY.

By Order of his Superiors,

ANDREW LOPEZ DE ARMESTO.

A Copy. *per copy* JAUDENES,  
VIAR.

*Department of State, to wit:*

[L. s.] I HEREBY certify that the foregoing is a true translation of the copy of a treaty in the Spanish language between the Spanish nation on the one part, and the Talapuche Indians of the other; concluded in the fort of Pensacola on the 31st of May and 1st of June, 1784, as communicated to the Secretary of State by Messrs. Viar and Jaudenes, commissioners on the part of Spain to the United States, Given under my hand and seal of office, this 16th day of May, 1793.

TH: JEFFERSON.

A TREATY of friendship between his catholick majesty, the great king of the Spains and the Indies, on the one part, represented by don Manuel Gayoso de Lemos, colonel of the royal armies, governour of the fort and the district of the Natchez, and on the other Tascaduca king of the Chickasaw nation, and Franchimastabia, principal chief of the Chactaw nation, accompanied by Yteleghana, Stonahuma, Tapenahuma, and Noesahuma Acho, all chiefs, and in presence of many captains and warriors of both nations, who came to the same fort voluntarily, and being assembled before the said governour of all the officialty, the persons in employ, and many respectable neighbours, promised reciprocally perpetual friendship between the people of the three nations, Spanish, Chickasaw and Chactaw, and that nothing might in future disturb or change this good harmony, they agreed unanimously on the following articles :

Article 1. That all the individuals of the Spanish, Chickasaw and Chactaw nations shall love one another reciprocally, and shall give prompt information to each other of whatever may be favourable or adverse to each in particular, and all in general.

Art. 2. That to remove every motive of discord, which in future times might occur about limits, the Chickasaw and Chactaw nations acknowledge that the limits of the dominions of his majesty in the neighbourhood of their territory, on the western side, begin on the river Mississippi at the mouth of the river Zasu,\* and ascending the said river along the middle of its waters till it comes near the place called Juego de la Pelota, where the English nation, by agreement with the Chactaw nation, marked a dividing line which continued till it entered West Florida, and following the said line from the said Juego de la Pelota, till it meets those which separate the rest of the dominions of his catholick majesty from the Alibamones and Talipuche nations.

Art. 3. The said Chickasaw and Chactaw nations declare, that all the lands which are to the south and to the west of the said line belonging indisputably to his catholick majesty, great king of the Spains and Indies, without that that they for themselves or their descendants have any right to them, nor at any time may reclaim them under any pretext or motive it may be, and moreover they promise to support the Spanish nation in possession of the said lands, in which are especially comprehended the government and territory of the Natchez, as far as the waters of the Zasu.

Art. 4. The Spanish nation declares and acknowledges that all the lands to the east of the said dividing line of the

[\* Yazoo.]

2d article belong lawfully and indisputably to the Chickasaw and Chactaw nations, promising to support them therein with all their power.

Art. 5. The Chickasaw and Chactaw nations shall preserve a most particular harmony with the governour general of Louisiana and both Floridas, with the particular of the Natchez, and with the commandants of the other forts and posts of the dominions of his catholick majesty in this part of the world, to regulate among them the subjects of commerce and police, which may be for the reciprocal benefit and utility of the three mentioned nations.

Art. 6. The said two nations leave to the determination of the governour of the Natchez the making them a generous demonstration for the good will with which they have ceded all their rights to the territory of the Nogales, (in English, Walnut-hills) joining to the Zasu, and within the dividing line mentioned in the 2d article.

Art. 7. The governour of the Natchez to make a corresponding present in the name of his catholick majesty to the chiefs present; and to the end that they may distribute them among the other individuals whom they may think entitled, in order to give them this proof the more of the generosity of the Spanish nation and of the good harmony which they desire to preserve with the Indian nation their neighbours, and to the end that this condition may not be in suspense, he delivers at present to the said chiefs the keys of the royal magazines in which are the goods; that they may take from them what they desire to their satisfaction.

Art. 8. The said chiefs before named acknowledge themselves satisfied with the goods which they have in their power, with the keys in their hands of the said magazines, having already seen what is in them.

Art. 9. Finally, the Chickasaw and Chactaw nations confirm and promise that they will be the constant friends of the Spanish nation, and to observe towards it whatever was covenanted at the congress of Mobile, and whatever they have since covenanted with the governours general of Louisiana and the two Floridas, and with the particular of the district of the Natchez; and the Spanish nation promises them equally perpetual friendship, and to observe all the conditions covenanted in the said congress of Mobile, and whatever the said governours have promised them since. In proof of which we promise to hold and keep whatever is expressed in the present treaty; we sign it, all the said Indian chiefs, Tascaotuca, Franchimastabia Yteleghana, Stonahuma, Tapenahuma and Noesahumaacho, putting our

marks with the said don Manuel Gayoso de Lemos, colonel of the royal armies, governour military and civil of the fort of the Natchez and its district, and the witnesses present, who in addition also sign it; sealed with the royal seal and countersigned by the underwritten secretary, don Joseph Vidal, being assembled in congress in the parochial church called the Saviour of the World, of the said fort of the Natchez, on the 14th of May, 1790. The seal manual—Gayoso de Lemos, The king of the Chickasaws, Franchimastabia, Yteleghana, Stonahuma, Tapenahuma, Noeshumaacho, Carlos de Grand Pre, Blasdu Bouchet, Estevan Minor, Turner Brashers, Ryan Bruin, Gregoiro White, Ygnacio Lopez, Augustin Macarty, George Cochran, Francisco Candel, Luis Faure, Juan Girault, Carlos Todd, Ebenezer Fulson, Antonio Soler, Jorge Tompson, Guillermo Wusthoff, Jaime M-Farlend, Elias Smith, Kinneth Thompson. By order of his seignory, Joseph Vidal. Copy, JAUDENES, VIAR.

## TRANSLATION.

*From a Spanish Translation of a Paper written by the Cherokee Nation to the Governour of New Orleans.*

FULL of respect and gratitude the Cherokee nation united has heard with satisfaction the message by the persons you sent, and give you expressive thanks for the great generosity with which you offer to assist them with all the means which depend on your power. A general meeting of the Indians is convoking for this effect, and what the warrior Bloody Fellow and the other chiefs have expressed to you on the oppression which we suffer is the same which the nation represents.

It complains bitterly of the ungenerous method with which the Americans have appropriated to themselves their dwelling lands. The first treaty which was held after the war with Great Britain was at Seneca, and was called the treaty of Hopewell. In this treaty the whites obtained concessions from the Indians, though not by general consent of the nation, because it is certain that the lands were settled before their consent was asked. The passion of the Americans for establishing themselves on the lands of the Indians is too well known to you to need explanation. In a word, since the Americans by the fraudulent means used among them have usurped the lands of the Indians, the nation universally reclaims and insists to preserve its ancient limits on

which they agreed with the British nation. They pray you to employ all your force, to obtain from his majesty, if it be possible, this favour; and if it cannot be obtained, they insist that the settlement at Cumberland alone shall be removed at all events; without this nothing will satisfy the Cherokees and Talapuches.

Cumberland was settled towards the conclusion of the last war by a certain Robertson and some companions of his, who, concealing their journey and designs, took possession by force of those lands. Perhaps the Americans will make it appear that they possess these by free and lawful treaties. But it is not so; and all the nation declares, on the contrary, that neither the last treaty nor the former were explained to the Indians, and they only knew their contents on their return to their nation.

Robertson and his companions are the real and true cause that so much blood has been spilt; and the confusion which has subsisted and still subsists, is owing entirely to this settlement; and while it remains in this place there is no hope of a solid peace. This settlement taken away, the Cherokee nation declares that it does not desire to be an enemy to the Americans: it declares, moreover, that it does not entertain this solicitude from caprice or pique; that they never questioned the legality of their former treaties, because under the British government they were treated with justice and humanity.

The nation moreover informs you that they all will preserve in remembrance your words, and will give attention to your friendly councils. Do nothing if possible against them. But if, on the other side, necessity compels them to take the field, they pray you will not impute it to their fault, because force alone will be the cause which places them under such an extremity, which they would avoid if possible. The Creeks pass daily in great numbers through this nation, which prays you to induce them to keep themselves quiet till the issue of the negotiation about their lands is known. Given in the Cherokee nation by me, and at the particular desire of the chiefs and warriors thereof, this 5th of April, 1793. Bloody Fellow, his mark. Guss, his mark. Charles of Chuckamogga, his mark. Walter Hunter Casique of Chukamogge, his mark. Spiller of Lookout Mountain, his mark. Richard Justice—Badger's Mother's warriors. Guillermo Shewrey, his mark: in the name of all the rest of the nation.

SENOR BARON DE CARONDELET.

A Copy.

JAUDENES.

VIAR.

*To the Chiefs, Warriors, and others of the Cherokee Nation.*

BROTHERS,—I have seen with much satisfaction the chiefs Respiration, Chickemago Charles, and the Bloody Fellow warrior of your nation. I have heard their words which I will preserve in my heart.

The losses and misfortunes of your nation have afflicted me, and I desire sincerely to relieve them.

I transmit to the great king of the Spains, whatever your messengers have said to me. His majesty keeps in his heart all the coloured people. He desires their happiness, and that all of them shall live in peace, and preserve their lands. The great king will employ with pleasure his mediation between your nation and those of the north, your allies, with the United States his friends, for the re-establishment of peace between both, and that all may be content.

Brothers, your messengers will tell you what they have seen and heard; the good counsels which I have given them; the strict union which I procure for the happiness of the coloured men our good friends, and to keep at a distance from them in future the miseries of war. Let your nation suspend all hostility against the United States, keeping themselves within their lands on the defensive, while the great king treats of peace between you and the Americans your neighbours, and obtains from them the lands necessary for your habitations, with a demarkation of limits which may leave no more room for contest.

You will let me know your claims, as to limits, that I may immediately inform the great king of them; and if the other nations of the north, your allies, will let me know theirs, I will procure that they may be comprised in the same treaty which shall terminate your differences with the United States.

Given, these presents, signed with my hand, sealed with the seal of my arms, in the city of New Orleans, the 24th of Nov. 1792. THE BARON OF CARONDELET.

By Order of his Seignory,

ANDREW LOPEZ DE ARNESTO.

THE BARON OF CARONDELET.

A Copy.

JAUDENES.

VIAR.

#### TRANSLATION.

*Copy of the Relation of Ugulayacabe of the Occurrences of his Journey to Cumberland.*

HE said that on his return from visiting his father, the chief of New Orleans, from whence he came with a very

handsome present, which had contented and satisfied him much, he met in the road two Americans who persuaded him pressinglly to go to Cumberland, where they would receive, as they told him, a good present. Ugulayacabe answered them that he had then been to see his father at New Orleans who had given him whatever he desired; that the Spaniards were his whites; that he desired no others. After which answer they solicited him no more. But having arrived at his nation, they went to his cabin, and teased him so much that he found himself under the necessity of consenting to take the journey to Cumberland, with the design of seeing if it was true that Pyamingo had ceded lands to the Americans, as he had heard say, and if in truth these were soliciting them from the Indians, as they had informed him. That having arrived at Cumberland, they spoke to governour Blount who caressed him much, and proposed to him to establish a factory or magazine of trade at Bear creek, which Ugulayacabe refused, because he did not desire any such establishment there, nor any where else; that he had the Spaniards for his whites; that they furnished his nation with all the goods they wanted; that he might see by the cloaths he had on, that he wanted for nothing; that on this governour Blount looked at him with evil eyes, and said to him "you have sold your lands well to the Spaniards;" to which he replied that it was not so, since they had no need of them. That then governour Blount asked him if he would assist the Americans, if they should have war with the whites; to which Ugulayacabe answered, that he would stand back and let them fight one another, but that he never would permit the Americans to establish themselves further in advance than where they were. That governour Blount gave him a great coat and a hat, a very pretty little one, which he could not get on his head, and so gave it to his son, because he was going to be married. That the Americans gave a dozen cart loads of goods to the Indians, for the value, (as they told him) of \$5,000: that he had little ammunition, no axes, mattocks, nor hatchets, some guns, much whiskey, victuals in abundance, meat at pleasure.

A Copy.

JAUDENES.  
VIAR.

*Department of State, to wit:*

The preceding letters and documents are true copies from those remaining in the office of this department.

TH: JEFFERSON.

No. 6.

*Copia a la letra de una Patente dada por el Gobernador Blount.*

WILLIAM BLOUNT, governour in and over the territory of the United States of America south of the river Ohio, and superintendent of Indian affairs for the southern district—  
To all who shall see these presents, greeting :

KNOW ye, that in consideration of the proofs of fidelity and friendship which we have had of the Indian called Itte-hoomasluble, of the Chactaw nation, maintaining close union with the United States, of his valour and consequence with the neighbouring nations, and of his good disposition and knowledge to command ; desiring to recommend such good qualities, I do appoint him chief and grand medal, admonishing him of the value he ought to put thereon, the obligation to govern his people well, and the respect he is to bear to the people of the United States, venerated the name of the President.

For these reasons we require all citizens of the United States to acknowledge him chief and grand medal as afore-said ; the same to the Indians of his nation, that they respect and obey him. Given under my hand and seal in the said territory this tenth day of August, one thousand seven hundred and ninety-two.

By the Governour,  
DANL. SMITH.

El Copia,

WM. BLOUNT.

JAUDENES,  
VIAR.

*Charleston, September 24, 1787.*

DEAR MAJOR,—The receipt of your kind favour by Mr. Barrel afforded me the greatest satisfaction, and can assure you that I should have been happy in obliging not only that gentleman but any person whom you would please to recommend to my attention. The disgust he has taken at the southern country, and his consequent short stay among us, deprive me of the pleasure of serving him as I would wish. Not many days have elapsed since my arrival from the western waters on particular business to this city. My intention is to return immediately to the state of Franklin, in which case I hope to see you before long. I have informed Mr. Barrel that I should have been happy in his company, but he is totally unprepared either in baggage or horses for a march

beyond the Alleghany mountains. Though a good young man, he seems not only to be unfit for *such a service*, but is totally unacquainted with the country in general. I thank you for your opinion concerning certain matters. There is no part of the continent where you could live more at your ease than in Franklin. I would advise you therefore (previous to bringing on your family) to come southward by the first opportunity, and secure a body of land for yourself on the Tennessee river. There will be work cut out for you in that country. I want you much. By God—take my word for it—that we will be speedily in possession of New Orleans. I particularly request that this letter may not extend beyond your own perusal. Adieu. JOHN SULLIVAN.

P. S. Write me immediately what you mean to do, and enclose your letters to major Washington, of Savannah.

Addressed to major William Brown, late of the Maryland artillery, Philadelphia.

*Philadelphia, November 6, 1787.*

OLIVER POLLOCK, Esq. hath shown to us the letter of which the foregoing is a true copy. The original has every mark of authenticity, and we believe it to be a genuine letter from the above named John Sullivan to major William Brown.

ROBERT MORRIS,  
GOUVR. MORRIS.

*Extract of a Letter from Governour Blount to the Secretary of War. July 28, 1791.*

“THE enclosed information may be depended upon, as captain Smith is a man of well known veracity; whether it is of any importance is not for me to determine, but I have conceived it my duty to give it. I have the honour to be, &c.

“Captain David Smith, now of Nashville, and heretofore an inhabitant of the district of the Natchez, informs, that on the 22d day of May, 1791, he was at the Walnut-hills with governour Gruoso of that district; that the Spaniards are erecting there a fort under Gruoso’s directions, that will cover ten acres of ground, the lines of which were marked out on the bank of the Mississippi about a mile and a half below the mouth of the river Zazo on a high bluff, in latitude 32° 44’ as appeared by an observation made by Gruoso himself, or by his order. This place is twenty-five miles by land above the upper settlements of the Natchez district.

"That two block houses and large barracks were completed, that a galley and gun-boat were laying in the river, and that two men were expected from Orleans ; that besides Spaniards, there were about thirty deserters from the federal troops, engaged in building the fort, who were paid fifteen dollars per month for their services."

The foregoing have been compared with the originals on file in the war office of the United States and found correct.

JOHN STAGG, JUN. Chief Clk.

June 26, 1793.

*Extract of a Letter from Timothy Barnard to James Seagrove.  
Flint's River, July 13, 1792.*

"THE Cussetah king has been here with me these five days past, and went off for the town yesterday just before I received your letter. Chief of his business was to inquire what I thought of the present situation of affairs in the nation, as they found what I had told them respecting Bowles turned out nearly as I had told them. He wished to know a little about the grounds of what this Spanish officer meant by the talks he had given them, which was, in the first place, not to run the line, but to come down to a meeting at Pensacola and Mobile, where the Spaniards this officer told them would call the Chactaws, Chickasaws, Cherokees, and Creeks, and give them all one talk ; and when they had all agreed to one talk, that they should all be furnished with arms, ammunition, and all other implements of war in their land, and then they were to lay still till they found that the subjects encroached on their lands ; and if they did, for them to defend their rights ; and that they, the Spaniards, would be at their backs. This I told the Cussetah king he might easily see into, as I had lately heard that there were some disputes on the Mississippi between the Spaniards and Americans about the land. That the Spaniards were afraid of the Americans, and that they wanted to get the Indians to fight the Americans, first, to save themselves, and get the Indians all destroyed ; and then think it will be time enough for them to begin. I told him many other things that I thought would take with him, which he seemed to take great notice of. He says that as matters cannot be settled till towards the fall with the state of Georgia, that they have agreed to go and hear the Spaniards' talks, and if they have any thing to give them they will take it, but that they are determined not to take any talks to do any mischief to their friendly Americans."

True extract from the original letter on file in the war  
office of the United States. JNO. STAGG, JUN.  
June 26th, 1793. Chief Clerk.

*Extracts from Letters of the Secretary of War to Brigadier  
General Josiah Harmar. War Office, Oct. 16, 1787.*

"IN consequence of a letter written by John Sullivan to don Diego de Gardoqui, the encargado de negocios of his most catholick majesty, bearing date the first of March last, and which has been published by the said Sullivan, as will appear by the enclosed paper, Congress have passed the resolve herewith transmitted.

"If therefore the said Sullivan should come within the federal territory, you will seize and confine him according to the said resolution, and report the same to me for the information of Congress, and for their further orders respecting him."

*War Office, November 14, 1787.*

"My last letter to you was dated on the 26th ultimo, and enclosed a duplicate of mine to you of the 16th; and also a copy of a resolve of Congress of the 13th of the same month, directing you to apprehend John Sullivan, styling himself late captain 4th regiment light dragoons, should he come within the federal territory.

"I also now enclose a copy of a letter said to be written by John Sullivan to major William Brown, dated Charleston 24th September, 1787. How far it may be practicable to execute the threats therein contained, respecting New Orleans, it is difficult or rather impossible to judge at this distance and with the slender information I possess on the subject.

"It has been reported generally that the inhabitants west of the Alleghany mountains have been highly irritated by the circulation of the idea that Congress were about to relinquish the navigation of the Mississippi for a number of years. Other reports also have been received, that the inhabitants of Cumberland have talked in a vague manner of the practicability of seizing the Natchez and New Orleans, and some unauthenticated publications have stated that there have been consultations on the subject by the inhabitants of Kentucky and Cumberland, during the summer past. But nothing has been received that had the appearance of reducing these indistinct accounts to a probability, or of any system being formed to carry them into execution, until Mr. Sullivan's letter was re-

ceived. Indeed his letter can be regarded only as an indication of his disposition, and not as an evidence of any fixed design on the subject. Such an enterprize would be in defiance of the laws of nations, disgraceful, and perhaps ruinous to the country by whose citizens it should be attempted.

"Although I cannot persuade myself that there can be any just foundation to apprehend that such a design is seriously entertained, excepting by an insignificant banditti, yet circumstanced as the reports are, it becomes necessary that such precautions be taken on the part of the United States as the nature of the case may require, and their means admit.

"You will therefore, on receiving this letter, endeavour to ascertain :

"1. Whether there is any plan formed, or forming, of the nature mentioned in Mr. Sullivan's letter?

"2. If so, the numbers of the party and the names and characters of the most influential persons who are concerned in, or abet the design?

"3. When the design is intended to be executed, and by what mode or route, and what means they can obtain for the purpose?

"4. How they are armed, accoutred, and supplied with ammunition, and whether they have cannon, and the necessary apparatus?

"In case you should receive such information on the subject as to remove all doubt that the design to which Mr. Sullivan alludes is on the point of execution, you will form your post below the Tennessee of such strength, if in your power, as will be able by force to prevent the passage of the party down the Ohio.

Previously to exerting actual force, you will represent, on behalf of the United States, to the persons conducting the enterprize, the criminality of their conduct, and the obligations of the sovereign authority to prevent, at every hazard, such audacious proceedings. Should, however, persuasions or other mild methods be ineffectual, you will then have recourse to the means in your power to prevent their proceeding in the execution of their design.

"I am well aware that I am placing you in a delicate predicament. But there are points of duty which must be accomplished without regarding the consequences. I conceive my duty, and my respect to the justice and dignity of the United States, oblige me to give you these orders, which will be your justification. I am persuaded you will conceive it to be your duty to execute them as far as may be practicable.

“But should you find, by your inquiries, that the design is still in embryo, and that the period of its accomplishment is at a distance, you will transmit me a full account of every circumstance relative to the subject, in order to be submitted to Congress.”

*War Office, December 19, 1787.*

“SINCE writing you on the 14th ultimo, I have seen a person from Franklin, who assures me there is no such design entertained in that country as is intimated in Mr. Sullivan’s letter to major Brown. Notwithstanding this information, I would wish that you relax nothing of the vigilance required in my letter to you on this subject. I would have you all eyes, and all ears respecting the interest of the United States.

“The inhabitants of the western waters may rest assured that whatever local difficulties they may experience, that they may depend on the protection and assistance of the Union, in all their legal pursuits. The interests are the same; and the man who endeavours to propagate a contrary sentiment ought to be regarded as an enemy to his country.”

*War Office, April 24, 1788.*

“YOUR visit to monsieur Cruzat, the Spanish commandant at St. Louis, was a judicious cultivation of the harmony which ought to prevail between the two nations. You will take every opportunity of convincing the Spanish officers that it is the sincere desire of the government of the United States to be on the most friendly footing with their nation, and to promote the most perfect harmony and good understanding. For this purpose you will impress strongly on all your officers and parties that on all occasions they must manifest the best dispositions to the Spanish officers and subjects.

“I am persuaded from the information derived from you and other sources, that the intelligence respecting the designs of Mr. Sullivan and his party on the western waters was highly blown, and could not have been seriously entertained by any but an insignificant number of desperate men.

“While you pursue every proper mode of obtaining information respecting any designs which may interrupt the peace and welfare of the United States, you will be sure to conduct the inquiry with the utmost caution and prudence.

“Respecting John Sullivan, you will conduct yourself agreeably to the resolves of Congress relatively to him. I do not conceive that you would be justified in apprehending

him without the territory of the United States. An attempt of that nature would involve complaints to Congress and discussions of more trouble than the value of the object."

The foregoing pages are true extracts from the records of the war office. JNO. STAGG, JUN. Chief Clerk.

June 25, 1793.

*Extract from the Secretary of War's Instructions to Captain Henry Burbeck. War Office, April 8, 1790.*

"BEING in the vicinity of a Spanish garrison, you will embrace all opportunities of evincing the most cordial friendship to that nation. If accidental differences should arise between the soldiers of your garrison and any of the Spanish soldiers or subjects, you will conduct yourself with perfect temper and politeness in the inquiry; if the offence or injury should have been committed by any of your garrison, you will inflict exemplary punishment; if by any Spanish soldier or subjects, you will make a statement of the affair with great precision and coolness to the nearest Spanish officer."

*Extract of a Letter from the Secretary of War to James Seagrove, Esq. Agent of the United States to the Creek Nation of Indians. War Department, April 29, 1792.*

"You are hereby instructed, on every occasion which shall occur, to evince the most cordial attention to the Spanish government and interest on the southern frontiers of the United States. In case you should know of any intentions of any desperado similar to Bowles, or any designs of the Indians injurious to the interest or peace of the Spanish government, you will communicate the same to the nearest Spanish officers. so that the evil apprehended may be avoided or repelled."

*Extract from the Secretary of War's Instructions to Major Henry Gaither of the third Sub-legion of the United States. War Office, Aug. 11, 1792.*

"You will on all occasions direct that the officers on the river St. Mary, and other places conduct themselves towards the Spanish officers and government with the greatest politeness and respect. Any offence against this order will be marked with the peculiar attention of the government, and treated as the nature of the case may require."

True extracts from the records of the war office.

June 25, 1793.

JOHN STAGG, JUN. Chief Clerk.

*Extract from the Secretary of War's Instructions to Major General Arthur St. Clair. War Office, March 21, 1791.*

"THIS proclamation became necessary, as information had been received that certain companies had purchased of the state of Georgia the pre-emption of the almost entire lands of the said Indian nations, and that measures were taking in pursuance thereof to effect settlements on the said lands, in direct violation of the said treaties and the peace of the United States.

"And information has lately been received that a certain doctor O'Fallon is levying troops in Kentucky, and issuing commissions in an illegal manner, for the purpose of making certain establishments upon the said lands.

"The conduct of the said doctor O'Fallon is considered of such a nature as that the attorney of the district of Kentucky has been directed to commence a prosecution against him according to law and the nature of his offence. And in order that all concerned under him should be warned of their situation, the President of the United States has issued another proclamation which is hereunto annexed.

"It is presumed the arrest of doctor O'Fallon and the issuing the proclamation will operate to prevent the execution thereof; but should they not, and the party proceed in the execution of their plan, it becomes an important consideration whether the military shall interfere to prevent them. This point is now under consideration of the legal department, and you shall be informed of the result."

*Extract from the Turkey to Governour Blount. Turkey Town, December 2, 1792.*

"YOUR good talk I have received, and am glad to find that you are pleased with the conduct of Mr. Thompson and the rest of my people that was in company with him. It was my earnest request to them to do the best for your people in the boats, which I am glad to hear they did. Now my good friend and brother, you wrote me to tell you what I thought and knew of the people that lives on the Big River. Now I will let you know and tell you the truth, which I am sorry and ashamed for to tell you of their proceedings and bad conduct. You may be assured it is not lies. I now tell you, as you wrote me never to write or send you word about any thing but the truth. The eighth day of this month they are determined to go off to war, all the five lower towns on the Big River. They have and will make war by themselves

you may be assured, and believe me it is not the consent of the whole nation, nor no part of it only them five towns. They agreed amongst themselves. Now you may know where the bad people lives; both you and your people may know now where the good and bad lives. Now I desire you and all your people not to come to war against no other towns, but them five towns on the Big River that has made war against you. The Spaniards has given them ammunition and guns, hatchets, knives, &c. and told them it was not to go to war but to keep it a reserve by them. You may blame nobody for all this only the Spaniards."

*Extract of a Letter from John Thompson to Governour Blount,  
Turkey's Town, September 2, 1792.*

"I AM sorry to acquaint your excellency of the bad conduct of the Indians on the Big River, or you may call them the five lower towns. On the 8th day of this month they intend to start out for war. But what part on the settlements they will fall on, we can't tell. The first day of this month I got to the Turkey's town; and there the news was that the Indians was making readiness for war. I made all haste I could back to send you this news. You told me to tell you nothing but what was the truth, and you may believe this to be the truth. I hope you will do the same by me as agreed. Those Indians will kill people every where to bring on the whites on them that is for peace. They have said it that they intend to do so. But when mischief is done, you will know where they came from, and you may depend the Creeks will do their part. Your excellency has got to blame the Spaniards for all this; they have give the ammunition, guns, hatchets, and knives, but not to make war with, but to keep it as a reserve."

*Extract of a Letter from Leonard D. Shaw, Agent of the  
United States to the Cherokee Nation, to Governour Blount.  
August 29, 1792.*

"IN my last letter I informed you of the frequent incursions of the Creeks, and the reason I had to apprehend some daring attempts from them. Since that time they have killed Mr. Ramsay, and a person who had lately arrived from Charleston. This happened the 24th instant. They were very nigh killing Moses Rice the preceding day, notwithstanding he was accompanied by the King Fisher and his wife, and they had formerly been intimate with him. Mr.

Ramsay was not above thirty yards from his own house when he was killed and scalped on the spot. The other person reached the house, but instantly expired. The open and avowed intention of the Creeks is to kill every white man they meet; and they declare that such is their orders. The great quantity of ammunition given to the Indians by the Spaniards persuades me that we are indebted to the latter for these visitations."

*Extract of Information from Red Bird, a Cherokee, enclosed in a Letter from Governour Blount. September 15, 1792.*

"THAT John Watts had been at Pensacola; that he brought home with him seven horse loads of ammunition, and as many accoutrements as were sufficient to equip two hundred horsemen, to wit, swords, &c. and that Watts was appointed to command the Creeks and the Cherokees who should be called into the field and be for war; and that the Creek nation had met in council and agreed to the appointment."

*Extract of a Letter from Ben James to Governour Blount, Choctaw Nation, June 30, 1792.*

"I TAKE the liberty to inform you that I had the opportunity of seeing your letter to this nation, and I think that you must be sensible that every white man in this nation must be dependent to Spanish government. If you are not sensible of it you must have heard that the Spaniards are a jealous people, and I have always been pointed out as an American. But I have always been true to that power that protected me; but the whole is, I am protected at my own expense. My reason of speaking to you in this manner is that I have received several insults from the Creeks and obliged to put up with it. For what reason? Because I am not able to help myself.

"I would apply to Spanish government for protection, but I am so sensible that they must encourage the Creeks that I cannot.

"Mr. Alexander McGillivray is now in New Orleans, and it is not for the good of the states of America that he is there, nor yet for this nation."

*Extract of Information from the Hanging Maw, enclosed in a Letter from Governour Blount. October 7, 1792.*

"THE amount of the information given by John Boggs was, that from the 15th to the 17th instant (September,) the

Creeks were passing the Tennessee at the running water, Nickajack, and at a place called the Creek crossing place about 30 miles below Nickajack, on their way to invade the District of Mero, Cumberland settlements; and that they were joined by from 100 to 200 Cherokees, among whom was John Watts; and that the Creeks had with them a great quantity of powder and lead which they had received from the Spaniards; that the whole were to rendezvous at the place where the different paths come together on their way towards Nashville, and concert their measures of attack upon the Cumberland settlements. That while he was at the Look-out mountain he was informed that Richard Findleston and a Frenchman had passed on from the Pensacola to Cumberland to obtain information of the true situation of that country, and were to return in ten nights and report such as they could collect. That he found it generally understood in the lower towns, as well as the other parts of the nation through which he passed, that such of the inhabitants of the five lower towns as did not want war had best leave them; and that such of the other towns as did want war had best move to them; and that some of both parties were moving, so as to take the situation which best suited their wishes and disposition for war or peace. Boggs is a half breed well known to many white people, and by all parties viewed as a man of veracity."

*Extract from Mr. Wallace's Report, enclosed in Governour Blount's Letter of December 16, 1792.*

"PURSUANT to your instructions I went with a flag to the towns of Chelhowee and Tallasee, and informed them of the danger they had been in of being destroyed, and warned them of the danger that would attend them in case any injuries were done the white people on the frontiers which lay near them, and advised them in the strongest terms not only to desist from murdering and stealing, but to restrain all others from so doing. Upon which the head man of the Chelhower immediately rose in great passion, said he wondered what governour Blount meant by sending in such a letter; could he prevent the Creeks and the lower towns of the Cherokees from passing through his towns to kill the people on the frontiers and steal horses; that if the governour's people were so fond of fighting, why did he not send them down to the lower towns, where Watts had 1600 men ready to fight, and they might get fighting enough. That if they would let his town alone until spring, they might

destroy it and welcome, for the Spaniards had offered them land to live on, arms, powder, and lead, even to boys not exceeding twelve years old, (pointing to one who stood near to shew the size.) Dec. 15, 1792.

*Extract from a Conference, &c. Knoxville, Dec. 26, 1792.*

“PRESENT—governour Blount and general Sevier, and the Hanging Maw, John Boggs Tolcoho, the Woman Holder, the Flute and eight other Cherokees; interpreters, Joseph Sevier, and John Spears a Cherokee.

“*Governour Blount to the Hanging Maw.* I have been informed that the Bloody Fellow, John Taylor, Moses Price and the Hare, went to Pensacola lately together. What news do they bring?

“*Hanging Maw.* The Hare only has returned. He says, the Bloody Fellow, Price, and Taylor, went on to Pensacola to visit some higher officer of the Spanish government than governour O’Niel, but where he did not know, nor when they would be back. That governour O’Niel showed him the magazines of ammunition for the Indians, of which they should have plenty; that the Americans were great rogues, and would give them but very little for a great price.

“*Governour Blount.* Where is the Breath of Nickajack?

“*Hanging Maw.* He went to Pensacola some time ago, and there lost his horses, and is now returning in canoes up the Coosa river with ammunition I know not how much.”

*Extracts from the Minutes of Information given Governour Blount by James Carey, one of the Interpreters of the United States in the Cherokee Nation, and transmitted to the Secretary of War in Governour Blount’s Letter of the 3th November, 1792.*

“AFTER leaving Coyatee, on the 25th day of May, the day after the conference at that place, which promised nothing but peace and friendship, Carey proceeded with many Indians (among whom was John Watts) to Toquo, distant fifteen miles, when a letter was handed to Watts (written by Mr. Pantan, a merchant of great business then in the Cherokee nation) addressed to the Bloody Fellow as well as Watts. Mr. Pantan wrote it from the house of Mr. McDonald, a Scotchman, an old resident in the Cherokee nation, and in the late war a deputy under colonel Brown who succeeded colonel Stewart in the superintendency of the nation, and Mr. McDonald forwarded it to Watts by an Indian run-

ner. The contents of the letter was to invite Watts and the Bloody Fellow, in the name of governour O'Neal, to come down to Pensacola with ten pack horses; that they should have from governour O'Neal arms and ammunition, as many and as much as they wanted; and that Panton himself would supply their nation with goods in plenty. Mr. Panton, during his stay in the nation, made the house of his countryman, Mr. McDonald, his head quarters, from whence they paid a visit to the Little Turkey, and spent several days together, Mr. McDonald acting as interpreter between Mr. Panton and the Turkey. The particulars of their conversation it is supposed never fully transpired; but it is said and believed that Panton invited the Turkey to visit governour O'Neal, assured him that the governour would give him arms and ammunition at Pensacola; that Mr. McDonald would accompany him in such a journey; that he, Panton, would supply the nation with goods made cheaper than they had heretofore purchased them. That the Creeks had agreed the Spaniards might erect a fort at the Alabama fork, a mile below Mr. McGillivray's house, for the protection of the Creeks and Cherokees, and where arms and ammunition would be kept for them both. This Alabama fork is a place where the French once had a fort, to and from which there is water sufficient for large boats to pass up and down from thence to Mobile. Shortly after Watts received the letter that Panton addressed to him and the Bloody Fellow, they went together to Mr. McDonald's house, and stayed with him a day and a night. Mr. McDonald wrote a letter to governour O'Neal, and commending Watts and his uncle Talteeske in high terms; he also wrote a letter to governour O'Neal in the name and at the request of the Bloody Fellow; the contents were that he had been to see the President, where he was well treated, but as for to seek for his lands as ever; that he was glad to hear that the Spaniards would supply his nation with arms and ammunition, and assist in the recovery of his lands. That he had been blind a long time, but now his eyes were opened. He would let go the hands of the United States, and take fast hold of the Spaniards; and requested that the governour would not permit Watts to return without plenty of arms and ammunition; and that he himself, and the Turkey, and some other of the chiefs, would come down with Mr. McDonald some time hence to visit him. The Bloody Fellow then accompanied Watts to the crossing of the Coosy river, encamped with him all night, and returned; and Watts and his companions proceeded for Pensacola with ten pack horses.

“ At this time (about the last of June) the national council were about to sit at Estinaula, by appointment made at the conference at the Coyatee, at the request of the Bloody Fellow, to receive his report touching the business he had been on to Philadelphia, and to hear the big book read which he had brought from the war office. The council waited his coming three days before business was entered upon. At length he sent an apology that one of his relations was unwell, and he could not come. He did not appear at the council ; and his absence can be attributed only to the letters he received from Panton for a Cogatee. He was the warm partizan for the United States, as was his friend Watts.

“ The demand of the Little Turkey, contained in his speech in council of the            day of June, that the ridge between Cumberland and Green rivers should be the line, can be accounted for no otherwise than from the visit of Panton. At the time the Turkey was delivering this part of his speech, the Jobber's son, sitting at a distance, observed to those around him in a low accent, that it was now too late to talk of that line, for they had established a different one at the treaty of Holston ; to which the Young Frog replied, “ that is nothing ; then we had nobody to back us ; now we have, and can get to that line ; ” meaning, as Carey now supposes, the Spaniards.

“ Immediately after the return of John Watts and his uncle from Pensacola to Willstown, in the latter part of August, the brother of the late Dragging Canoe, the same that the council at Estinaula declared should succeed to his brother's honours and command, came to Estinaula after the war pipe which he had brought from Detroit, and left at the house of the Old Prince, while the Old Prince was at Philadelphia, which pipe the Old Prince and the King Fisher on their return from Philadelphia destroyed, and being informed of the fate of his war pipe, declared if the King Fisher was present he would destroy the medal that had been given him at Philadelphia ; that in future his talks should be considered as a little boy's, and not as the talks of a man and a warrior. He then requested the Warrior's son, the Standing Turkey, and the Half Breed, to go to a pipe maker who lived about twenty miles from Estinaula, and have a pipe made as near like that which was destroyed as possible, that he might have it to show to the Northwards whom he daily expected at the lower towns. About an hour after this conversation had passed he took the three before mentioned Indians and the Big Fellow out from the company, and delivered them a talk from Watts : that they must attend at Willstown in eight nights :

to pay no more attention to the talks of the old chiefs. That they were not to assist the old chiefs in the restitution of horses or any other property taken from the United States; that the day was just at hand when the blow was to be struck; that Watts had been to Pensacola, seen governour O'Neal, and all things were to his wishes; that the thing would be fully explained to their satisfaction on their arrival at Willstown; and delivered them a string of black beads of four strands. This they agreed to, and made Carey acquainted with what had been said to them.

"The Cherokees assembled from every quarter of the nation at Willstown to hear Watts's report from Pensacola, and to the green corn dance, which was at the same time there to be held.

"Watts commenced his report by causing a letter which governour O'Neal had written by him to the chiefs to be publicly read. The contents were, that his master the king of Spain had sent to his care at Pensacola arms and ammunition in abundance, for the use of the four southern nations, which he had divided into four separate warehouses. That Watts had been an eye witness of the quantity he had of powder and lead and arms; that he had sent some by Watts for the Cherokees; that the king of Spain had made a greater man of McGillivray than Congress did; that it was his business to deliver out these articles; that he would be at Pensacola by the middle of October, when, if the whole of the towns would come down, they should be supplied each town with from 400 to 500 lbs. powder, and more if necessary, and lead accordingly, and with arms; and that he would have plenty of provisions provided for their support, while with him; and recommended Mr. McDonald and Alexander Campbell, their old friends, to their particular notice and protection. The letter being read, Watts then informed what governour O'Neal had said to him. The governour, he said, received him with open arms, asked him if he had seen any Spanish settlers before he arrived at Pensacola, assured him that the Spaniards never wanted a back country; wherever they landed, they sat down. Even such a sand bank as this is sufficient for them. They are not like the Americans, first take your lands, then treat with you, and give you little or nothing for it. This is the way they have always served you, and from time to time killed some of your people. In the late war between Great Britain and the United States the Spaniards assisted them and lent them money, and they owe the Spaniards a great deal, and instead of paying them what they owe, they take our lands as well as yours. That the

king his master had sent in powder, lead and arms for the whole four southern nations in plenty, and that then was the time for them to join quickly in war against the United States, while they were engaged in a war with the northern tribes. If they did not, that as soon as they (the United States) conquer the northern tribes, they would be upon them, and cut them off; that the talks which that part of the nation who had been to visit the President had received was not from the heart, but only from the teeth. That besides guns and ammunition, they should be furnished with swords, caps, pistols, bridles and saddles, for horsemen. That the king of Spain had ordered a fort to be built at the Alabama fork, within a mile of McGillivray's house, to which the Creeks had agreed, where there would always be a magazine of arms and ammunition for both Creeks and Cherokees; and that a magazine should be erected for the Cherokees at Wills-town.

"Watts having thus recapitulated the talks he received from governour O'Neal, proceeded to address his audience, that his people had been to several places, to Hopewell, to Swannano, to Holston, and to Philadelphia; and he had heard all their reports, but none pleased him like what he had heard and seen at Pensacola.

"Here Findleston's narrative takes up the proceedings at Willstown, which Carey confirms as far as he knows, and contradicts no part.

"It has been concluded among the Creeks, that the young warriors, with a few of the chiefs, should go down to Pensacola to receive arms and ammunition, and that others should go to Seagrove, at the Rocklanding, and give good talks, and obtain all the presents they could, until the nation was quite ready for war. This information given by the brother of Chinnabee the great Natchez warrior." JAMES CAREY.

Knoxville, November 3, 1792.

To the information contained in this narrative, I pay full faith and credit.

WM. BLOUNT.

*Extract of a Letter from James Seagrove, Esq. Agent of the United States to the Creek Nation, to the President of the United States. Rocklanding, Oconnee River, July 5, 1792.*

"THE information which I am about to give, appearing to me of importance to the United States, I hope will plead my excuse for thus intruding on your moments of retirement. In my despatch of the 14th ultimo, to the Secretary of War, I promised to procure what information I could respecting a

Spanish officer which general McGillivray mentions in his letter to me of the 18th of May, a copy of which you have herewith.

“I find on inquiry of the Indian chiefs now with me that this Spanish officer is the same person that I have mentioned in my former letters as a Spanish resident or agent who arrived from New Orleans, and lives in a house of general McGillivray's at Little Tallassie.

“It remains no longer a doubt who this person is and his business in the Creek nation. His name is Olivar, a Frenchman born, a captain in the Spanish army, wears the uniform of the regiment of Lewise, and sent by the immediate orders of Baron *du Condulette*, governour of New Orleans, as an agent or perhaps something more, to conduct affairs in the Creek nation.

“It would appear by the style of general McGillivray's letter to me that this Spanish agent had just arrived, and that he was a stranger to him or his business. This was not the case, for it is well known, and I can produce unquestionable proofs that he had then been several months at Mr. McGillivray's own house at Little Tallassie. The general took much pains in sending for a number of the chiefs, and introduced this Spaniard to them as their *great friend*, who was come to live among them, and to do great things for them. It can also be made appear that the general was riding about the country with this Spaniard, at the time when by his engagements he ought to have been with me.

“I have not a doubt but that the arrival of this Spanish agent was in consequence of a preconcerted — between McGillivray and the Spaniards on his visit last winter to their possessions, and that captain Olivar is to be his successor in the Creek land. For you must know the general is again gone with nearly the whole of his property into New Orleans, and I doubt whether he returns. Certain it is that he hath engaged to attend the Spanish treaty with the Indians at Pensacola in September next.

“As soon as general McGillivray quit the nation, capt. Olivar threw off all mask by calling meetings of the towns, and directing what the Indians should and should not do. He in the most publick and positive manner forbids them parting with a foot of land to the United States, and also forbids their running the boundary line between them and Georgia; and positively tells the Indians not to have any thing to do with the Americans. It is said by several persons (but I cannot vouch for the truth of it) that he has gone so far in the upper towns as to advise the Indians turning out

against our people on the western waters. I think this not improbable, for about ten days past, he had the impudence to come into the lower towns, and give out publick talks, advising the Indians not to come near me, and on no account to run the line. This I have from persons who were present, and heard him.

“I am happy in being able to inform you he met a very cool reception in the lower towns. The Indians who had been with me had returned home and influenced the people so much in our favour, that he found it convenient to make a speedy retreat to Little Tallassie.

“A brother in law of general McGillivray’s, a white man who lives at Tallassie, of the name of Weatherford, is now here, who confirms what I have related of this Spanish agent; and further says, that he hath at general McGillivray’s house a quantity of goods which he distributes among the Indians. That he draws orders on government in favour of all Indians going to Orleans, who receive goods and ammunition which they bring up in boats, and that they have a constant intercourse in this way. That he is engaged in securing the chiefs to attend the treaty at Pensacola. That it was much talked of in the nation. That one object of the Spanish treaty would be to obtain leave to erect forts, and establish garrisons on the Creek lands.

“Those matters seem of so much moment, come so direct, and I believe unquestionably true, that I have lost no time in giving you notice thereof.

“I cannot account for this interference of the Spaniards, and sometimes think that captain Olivar cannot be supported by his government in such doings, and that he is exceeding his instructions.

“I find that the Spanish agent is on very friendly terms with Bowle’s successor in the nation, a man of the name of Willbanks.

“I cannot help expressing my fears to you that the Spaniards are playing a double game with us on the score of Bowles. My opinion is that they will make him useful to their views. Their very kind treatment of him since he has been among them cannot fail to create suspicion in the breast of any one as well acquainted as I am with Spanish want of lenity to *actual prisoners*, especially such as have offended against their government. Bowles hath not been confined by them, and it is a doubt with me, but what appeared a capture of him to us was in fact a concerted plan with him. He is sent to Spain, but not in confinement. Why send him there? Sure the governour of New Orleans, or the captain general

at the Havanna, are possessed with powers equal to punishing or acquitting a man of Mr. Bowles' character. I fear there is some dark and dangerous business in contemplation among those people. I fear general McGillivray is not faithful to the United States; and I have my suspicion that if any mischief is brewing, he is deeply engaged in it. I never expect he will come forward as an active character *in the field*. He wants spirit, and this is the reason of his placing Olivar in his stead, and of his withdrawing to the Spaniards as an asylum. Olivar is represented to me as a man of good address, who speaks the French, Spanish and English languages equally well.

"I fear the reason of Mr. McGillivray's not meeting me, and his not forwarding the business of the treaty made at New York, as well as his evasive conduct to all the pressing arguments made use of to him by the Secretary of War and myself, arose from preconcerted plans with his Spanish and English friends, and not from any real opposition the Indians made thereto."

*Letter from General Alexander McGillivray to James Seagrove, Esq. enclosed in the foregoing. Upper Creeks, Little Tallassie, May 18, 1792.*

DEAR SIR,—I received your letter of 1st inst. You have no doubt been expecting me some time. I had been waiting this month past to get our lower gentry into humour of attending to national matters, and to recover from the confusion they had been thrown in by the talks of the lying captain. After he was secured by the Spaniards I had some hope of their soon forgetting him and his British fleets. When to my surprize some Indians from Orleans have given and spread reports that he has made matters worse than ever, and a Spanish officer has actually arrived and tells the Indians that he has orders to prevent them running the line, or doing any other business with the Americans, and invites to a meeting in September next at Pensacola. This last stroke is too much. The Indians, at least a good many, are as mad as ever; and Bowles' partizans again getting loud about giving away land. 'Tis no wonder the Indians are distracted, when they are tampered with on every side, and am myself in the situation of a keeper of Bedlam, and nearly fit for an inhabitant.

Finding that the Cussitah chiefs are still at home, Randall carries a talk desiring them in most pressing language to go directly and have the line run. But since Bowles had given

hope of British aid, a majority of the towns would agree to cede no more than the east side of Oconnee; and now they are told to give none at all; and I wish that more may not be insisted upon at present to avoid disputes and its horrid consequences, a diabolical war, in which they will be supported, and in which I will not have any hand.

I am hastening to go and get an explanation from the proper persons, and the reasons for their interference. At present I cannot guess at their motives. You are no stranger to their dispositions.

The Indians will report these Spanish talks of themselves.

*Extract of a Letter from James Seagrove, Esq. to the President of the United States. Rocklanding, July 27, 1792.*

“SINCE my last to you, which was pretty full on the subject of Spanish and Indian matters, I have received many pieces of information, all tending to confirm me in the opinion that the Spaniards are acting as much to the injury of the United States as they possibly can; and that gen. M<sup>c</sup>Gillivray hath verified my predictions of him.

“From every information which I can collect from white people and Indians, there does not remain a doubt with me but that the Spaniards will, if possible they can, involve the United States in a war with the four southern nations of Indians. Every exertion is making by the Spaniards, and undue measures taking with the savages to stir them up against us.

“The enclosed testimony on oath of James Leonard, who appears to be a man of information and respectable decent manners, will explain and open to you new matter of perfidy in Spain, as well as base conduct in general M<sup>c</sup>Gillivray. Mr. Leonard is a stranger to me and in this country; his appearance is much in his favour; he is a modest man, of few words, and seems actuated in this information by no other motive but to serve the United States. He is a citizen of Massachusetts, and lived at Beverly.

“Mr. Leonard’s testimony being corroborated to me by a variety of accounts and circumstances within my own knowledge, I am the more readily led to place confidence in it. He is now with me, and I have taken much pains in cross examining and sounding him on this information, but I cannot find him defective, or any room for suspicion as to his veracity.”

*To the Chiefs and Warriors of the Chickasaw Nation of Indians.*

BROTHERS,—Your father, general Washington, the President of the United States, has understood through governour Blount, that you are greatly in want of arms, and ammunition, and corn ; and therefore he has taken the earliest opportunity of proving to you his friendship and the desire of being serviceable to you.

It is his earnest desire to be at peace with all the Indian tribes, and he recommends the same measure to you. Nothing but the most dreadful necessity will justify a state of war. Such necessity however sometimes exists ; but peace is always to be sought for with the greatest eagerness upon the first opportunity.

The United States has endeavoured to persuade the hostile Indians to a peace, from motives of kindness to them, and not from any apprehensions as to the final issue of the war. On these grounds a treaty with the Indians north of the Ohio is to be held at Sandusky in a short time. If they listen to the dictates of justice, they will make peace ; if not, they will be made to repent their persisting in hostilities. Although the United States are slow to anger, yet when once roused their wrath will be destructive to their enemies.

Your father general Washington will continue to love and cherish you ; and if requisite, he will supply you further with articles necessary to your station ; and for which you will apply to the general commanding the army at fort Washington.

Given at the war office of the United States, in the city of Philadelphia, this 27th day of April, 1793.

H. KNOX, Secretary of War.

*Department of State, to wit :*

THE preceding letters and documents are true copies from those remaining in the office of this department.

TH: JEFFERSON.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS,  
RELATIVE TO MOROCCO AND ALGIERS. DEC. 16, 1793.

I LAY before you a report of the Secretary of State on the measures which have been taken on behalf of the United

States for the purpose of obtaining a recognition of our treaty with Morocco, and for the ransom of our citizens, and establishment of peace with Algiers.

While it is proper our citizens should know that subjects which so much concern their interests and their feelings have duly engaged the attention of their legislature and Executive, it would still be improper that some particulars of this communication should be made known. The confidential conversation stated in one of the last letters sent herewith is one of these.—Both justice and policy require that the source of that information should remain secret. So a knowledge of the sums meant to have been given for peace and ransom might have a disadvantageous influence on future proceedings for the same objects.

GEORGE WASHINGTON.

THE Secretary of State, having duly examined into the papers and documents of his office relative to the negotiations proposed to be undertaken with the governments of Morocco and Algiers, makes thereupon to the President of the United States, the following report:

The reports which he made on the 28th of December, 1790,\* on the trade of the United States in the Mediterranean, to the House of Representatives, and on the situation of their citizens in captivity at Algiers to the President, having detailed the transactions of the United States with the governments of Morocco and Algiers, from the close of the late war to that date, he begs leave to refer to them for the state of things existing at that time.

On the 3d of March, 1791, the legislature passed an act appropriating the sum of 20,000 dollars to the purpose of effecting a recognition of the treaty of the United States with the new emperor of Morocco; in consequence whereof Thomas Barclay, formerly consul general for the United States in France, was appointed to proceed to Morocco, in the character of consul for the United States, to obtain a recognition of the treaty; and on the 13th of May, in the same year, the following letter was written to him:

*To Thomas Barclay, Esq. Philadelphia, May 13, 1791.*

SIR,—You are appointed by the President of the United States to go to the court of Morocco, for the purpose of obtaining from the new emperor a recognition of our treaty

\* See page 56 of this volume.

with his father. As it is thought best that you should go in some definite character, that of consul has been adopted; and you consequently receive a commission as consul for the United States in the dominions of the emperor of Morocco, which having been issued during the recess of the Senate, will of course expire at the end of their next session. It has been thought best, however, not to insert this limitation in the commission, as being unnecessary, and it might perhaps embarrass. Before the end of the next session of the Senate it is expected the objects of your mission will be accomplished.

Lisbon being the most convenient port of correspondence between us and Morocco, sufficient authority will be given to colonel Humphreys, resident for the United States at that place, over funds in Amsterdam, for the objects of your mission. On him, therefore, you will draw for the sums herein allowed, or such parts of them as shall be necessary. To that port, too, you had better proceed in the first vessel which shall be going there, as it is expected you will get a ready passage from thence to Morocco.

On your arrival in Morocco, sound your ground, and know how things stand at present. Your former voyage there having put you in possession of the characters through whom this may be done, who may best be used for approaching the emperor and effecting your purpose, you are left to use your own knowledge to the best advantage.

The object being merely to obtain an acknowledgment of the treaty, we rely that you will be able to do this, giving very moderate presents. As the amount of these will be drawn into precedent on future similar repetitions of them, it becomes important. Our distance, our seclusion from the ancient world, its politicks and usages, our agricultural occupations and habits, our poverty, and lastly our determination to prefer war in all cases to tribute under any form and to any people whatever, will furnish you with topicks for opposing and refusing high or dishonouring pretensions; to which may be added the advantages their people will derive from our commerce, and their sovereign from the duties laid on whatever we extract from that country.

Keep us regularly informed of your proceedings and progress, by writing by every possible occasion, detailing to us particularly your conferences either private or publick, and the persons with whom they are held.

We think that Francisco Chiappe has merited well of the United States by his care of their peace and interests. He has sent an account of disbursements for us amounting to

394 dollars. Do not recognise the account, because we are unwilling, by closing that, to give him a colour for presenting larger ones hereafter, for expenses which it is impossible for us to scrutinize or control. Let him understand that our laws oppose the application of publick money so informally ; but in your presents, treat *him* handsomely, so as not only to cover this demand, but go beyond it with a liberality which may fix him deeply in our interests. The place he holds near the emperor renders his friendship peculiarly important. Let us have nothing further to do with his brothers, or any other person. The money which would make one good friend, divided among several will produce no attachment.

The emperor has intimated that he expects an ambassador from us. Let him understand that this may be a custom of the old world, but it is not ours : That we never sent an ambassador to any nation.

You are to be allowed from the day of your departure till your return \$166 $\frac{2}{3}$  a month for your time and expenses, adding thereto your passage money and sea stores going and coming.

Remain in your post until the 1st of April next, and as much longer as shall be necessary to accomplish the objects of your mission, unless you should receive instructions from hence to the contrary.

With your commission you will receive a letter to the emperor of Morocco, a cypher and a letter to colonel Humphreys. I have the honour to be with great esteem, &c.

TH : JEFFERSON.

A private instruction which Mr. Barclay is to carry in his memory, and not on paper, lest it should come into improper hands.

WE rely that you will obtain the friendship of the new emperor, and his assurances that the treaty shall be faithfully observed, with as little expense as possible. But the sum of ten thousand dollars is fixed as the limit which all your donations together are not to exceed.

May 13, 1791.

TH : JEFFERSON.

A letter was at the same time written to Francisco Chiappe, a person employed confidentially near the emperor, who had been named consul there for the United States by Mr. Barclay, on his former mission, and appeared to have acted with zeal for our interest. It was in these words :

*To Francisco Chiappe. Philadelphia, May 13, 1791.*

SIR,—Since my entrance into the office of Secretary of State, I have been honoured with several of your letters, and should sooner have acknowledged the receipt of them, but that I have from time to time expected the present occasion would occur sooner than it has done.

I am authorized to express to you the satisfaction of the President at the zeal and attention you have shown to our interests, and to hope a continuance of them.

Mr. Barclay is sent in the character of consul of the United States to present our respects to his imperial majesty, for whom he has a letter from the President. We have no doubt he will receive your aid, as usual, to impress the mind of the emperor with a sense of our high respect and friendship for his person and character, and to dispose him to a cordial continuance of that good understanding so happily established with his father.

Our manner of thinking on all these subjects is so perfectly known to Mr. Barclay, that nothing better can be done than to refer you to him for information on every subject which you might wish to inquire into. I am with great esteem, &c.

TH: JEFFERSON.

To this was added a letter to colonel Humphreys, our resident at Lisbon, through whom it was thought proper to require that the draughts of money should pass. It was in the following words :

*To Colonel David Humphreys. Philadelphia, May 13, 1791.*

DEAR SIR,—Mr. Thomas Barclay is appointed by the President of the United States to go to Morocco, in the character of consul, for the purpose of obtaining from the new emperor a recognition of our treaty with his father.

Ten thousand dollars are appropriated for presents, in such form and to such persons as Mr. Barclay in his discretion shall think best ; and he is to receive for himself at the rate of two thousand dollars a year, and his sea expenses.

It is thought best that the money for these purposes should be placed under your control, and that Mr. Barclay should draw on you for it. Thirty-two thousand one hundred and seventy-five guilders current are accordingly lodged in the hands of our bankers in Amsterdam, and they are instructed to answer your draughts to that amount ; you notifying them that they are to be paid out of the fund of *March 3, 1791*,

that this account may be kept clear of all others. You will arrange with Mr. Barclay the manner of making his draughts, so as to give yourself time for raising the money by the sale of your bills.

A confidence in your discretion has induced me to avail the publick of that, in the transaction of this business, and to recommend Mr. Barclay to your counsel and assistance through the whole of it. I enclose you one set of the bills for 13,000 dollars before mentioned, and a copy of my letter to the bankers. Duplicates will be sent to them directly.

I have the honour to be, &c. TH: JEFFERSON.

On Mr. Barclay's arrival in Europe, he learned that the dominions of Morocco were involved in a general civil war, the subject of which was the succession to the throne, then in dispute between several of the sons of the late emperor; nor had any one of them such a preponderance as to ground a presumption that a recognition of the treaty by him would ultimately be effectual. Mr. Barclay therefore took measures for obtaining constant intelligence from that country, and in the mean time remained at Lisbon, Cadiz, or Gibraltar, that he might be in readiness to take advantage of the first moments of the undisputed establishment of any one of the brothers on the throne, to effect the objects of his mission.

Though not enabled at that time to proceed to the redemption of our captive citizens at Algiers, yet we endeavoured to alleviate their distresses by confiding to colonel Humphreys the care of furnishing them a comfortable sustenance, as was done in the following letter to him:

*To Colonel David Humphreys. Philadelphia, July 13, 1791.*

DEAR SIR,—Mr. Barclay having been detained longer than was expected, you will receive this, as well as my letter of May 13, from him. Since the date of that, I have received your No. 15, March 31, No. 16, April 8, No. 17, April 30, No. 18, May 3, and No. 20, May 21.

You are not unacquainted with the situation of our captives at Algiers. Measures were taken, and were long depending, for their redemption; during the time of their dependance we thought it would forward our success to take no notice of the captives. They were maintained by the Spanish consul, from whom applications for reimbursement through Mr. Carmichael often came: no answer of any kind was ever given. A certainty now that our measures for their redemption will not succeed, renders it unnecessary for us to be so reserved on the subject, and to continue to wear the appearance of

neglecting them. Though the government might have agreed to ransom at the lowest price admitted with any nation (as for instance, that of the French order of Merci) they will not give any thing like the price which has been lately declared to be the lowest by the captors. It remains then for us to see what other means are practicable for their recovery. In the mean time it is our desire, that the disbursements hitherto made for their subsistence by the Spanish consul, or others, be paid off, and that their future comfortable subsistence be provided for. As to past disbursements, I must beg the favour of you to write to Mr. Carmichael, that you are authorized to pay them off; and pray him to let you know their amount, and to whom payments are due. With respect to future provision for the captives, I must put it into your hands. The impossibility of getting letters to or from Mr. Carmichael renders it improper for us to use that channel. As to the footing on which they are to be subsisted, the ration and clothing of a soldier would have been a good measure, were it possible to apply it to articles of food and clothing, so extremely different as those used at Algiers. The allowance heretofore made by the Spanish consul, might perhaps furnish a better rule, as we have it from themselves that they were then comfortably subsisted. Should you be led to correspond with them at all, it had better be with captain O'Brien, who is a sensible man, and whose conduct since he has been there, has been particularly meritorious. It will be better for you to avoid saying any thing which may either increase or lessen their hopes of ransom. I write to our bankers to answer your draughts for these purposes; and enclose you a duplicate to be forwarded with your first draught. The prisoners are fourteen in number, their names and qualities as follows: Richard O'Brien, and Isaac Stephens, captains; Andrew Montgomery, and Alexander Forsyth, mates; Jacob Tessanier, a French passenger; William Paterson, Philip Sloan, Peleg Lorin, John Robertson, James Hall, James Cathcart, George Smith, John Gregory, James Hermit, seamen. They have been twenty-one or twenty-two. I have the honour to be, &c. TH: JEFFERSON.

On the 8th of May, 1792, the President proposed to the Senate the following questions:

If the President of the United States should conclude a convention or treaty with the government of Algiers for the ransom of the thirteen Americans in captivity there, for a sum not exceeding forty thousand dollars, all expenses included, will the Senate approve the same? Or, is there any

and what greater or lesser sum, which they would fix on as the limit beyond which they would not approve the ransom?

If the President of the United States should conclude a treaty with the government of Algiers for the establishment of peace with them at an expense not exceeding twenty-five thousand dollars paid at the signature, and a like sum to be paid annually afterwards during the continuance of the treaty, would the Senate approve the same? Or, are there any greater or lesser sums which they would fix on as the limits beyond which they would not approve of such treaty?

GEORGE WASHINGTON.

These questions were answered by the following resolution of the Senate, of May 8th, 1792.

*In Senate, May 8, 1792.*

RESOLVED, That if the President of the United States shall conclude a treaty with the government of Algiers for the establishment of a peace with them at an expense not exceeding forty thousand dollars paid at the signature, and a sum not exceeding twenty-five thousand dollars to be paid annually afterwards, during the continuance of the treaty, the Senate will approve the same. And in case such treaty be concluded, and the President of the United States shall also conclude a convention or treaty with the government of Algiers for the ransom of the thirteen American prisoners in captivity there for a sum not exceeding forty thousand dollars, all expenses included, the Senate will also approve such convention or treaty.

Attest.

SAM. A. OTIS, Secretary.

IN order to enable the President to effect the objects of this resolution, the legislature by their act of May 8, 1792, C. 41. § 3. appropriated a sum of fifty thousand dollars to defray any expense which might be incurred in relation to the intercourse between the United States and foreign nations.

Commissions were hereupon made out to admiral Paul Jones for the objects of peace and ransom, and a third to be consul for the United States at Algiers. And his instructions were conveyed in the following letter :

*To Admiral John Paul Jones. Philadelphia, June 1, 1792.*

SIR,—The President of the United States having thought proper to appoint you commissioner for treating with the dey

and government of Algiers on the subjects of peace and ransom of our captives, I have the honour to enclose you the commissions, of which Mr. Thomas Pinckney now on his way to London as our minister plenipotentiary there, will be the bearer. Supposing that there exists a disposition to thwart our negotiations with the Algerines, and that this would be very practicable, we have thought it advisable that the knowledge of this appointment should rest with the President, Mr. Pinckney and myself; for which reason you will perceive that the commissions are all in my own hand writing: for the same reason, entire secrecy is recommended to you; and that you so cover from the publick your departure and destination as that they may not be conjectured or noticed; and at the same [time] that you set out after as short delay as your affairs will possibly permit.

In order to enable you to enter on this business with full information it will be necessary to give you a history of what has passed.

On the 25th July, 1795, the schooner *Maria*, captain Stevens, belonging to a Mr. Foster of Boston, was taken off cape St. Vincents by an Algerine cruiser; and five days afterwards the ship *Dauphin*, captain O'Brien, belonging to Messrs. Irvins, of Philadelphia, was taken by another about fifty leagues westward of Lisbon. These vessels with their cargoes and crews, twenty-one persons in number, were carried into Algiers. Mr. John Lamb appointed agent for treating of peace between the United States and the government of Algiers, was ready to set out from France on that business, when Mr. Adams and myself heard of these two captures. The ransom of prisoners being a case not existing when our powers were prepared, no provision had been made for it. We thought however we ought to endeavour to ransom our countrymen without waiting for orders; but at the same time, that, acting without authority, we should keep within the lowest price which had been given by any other nation. We therefore gave a supplementary instruction, to Mr. Lamb to ransom our captives, if it could be done for 200 dollars a man, as we knew that three hundred French captives had been just ransomed by the Mathurins, at a price very little above this sum. He proceeded to Algiers; but this mission proved fruitless. He wrote us word from thence, that the dey asked 59,496 dollars for the twenty-one captives, and that it was not probable he would abate much from that price; but he never intimated an idea of agreeing to give it. As he has never settled the accounts of his mission, no further information has been received. It has been said that he en

tered into a positive stipulation with the dey to pay for the prisoners the price above mentioned, or something near it; and that he came away with an assurance to return with the money. We cannot believe the fact true; and if it were, we disavow it totally, as far beyond his powers. We have never disavowed it formally, because it has never come to our knowledge with any degree of certainty.

In February, 1787, I wrote to Congress to ask leave to employ the Mathurins of France in ransoming our captives, and on the 19th of September, I received their orders to do so, and to call for the money from our bankers at Amsterdam as soon as it could be furnished. It was long before they could furnish the money, and as soon as they notified that they could, the business was put into train by the general of the Mathurins, not with the appearance of acting for the United States, or with their knowledge, but merely on the usual ground of charity. This expedient was rendered abortive by the revolution of France, the derangement of ecclesiastical orders there, and the revocation of church property, before any proposition perhaps had been made in form by the Mathurins to the dey of Algiers.

I have some reason to believe that Mr. Eustace, while in Spain, endeavoured to engage the court of Spain to employ their Mathurins in this same business, but whether they actually moved in it, or not, I have never learned.

We have also been told that a Mr. Simpson, of Gibraltar, by the direction of the Messrs. Bulkleys of Lisbon, contracted for the ransom of our prisoners (then reduced by death and ransom to fourteen) at  $34,792\frac{2}{3}$  dollars. By whose orders they did it we could never learn. I have suspected it was some association in London, which finding the prices far above their conception, did not go through with their purpose, which probably had been merely a philanthropick one: be this as it may, it was without our authority or knowledge.

Again, Mr. Cathalan, our consul at Marseilles, without any instruction from the government, and actuated merely, as we presume, by a willingness to do something agreeable, set on foot another negotiation for their redemption, which ended in nothing.

These several volunteer interferences, though undertaken with good intentions, run directly counter to our plan; which was to avoid the appearance of any purpose on our part ever to ransom our captives, and by that semblance of neglect, to reduce the demands of the Algerines to such a price as might make it hereafter less their interest to pursue our

citizens than any others. On the contrary they have supposed all their propositions, directly or indirectly, came from us: they inferred from thence the greatest anxiety on our part, where we had been endeavouring to make them suppose there was none; kept up their demands for our captives at the highest prices ever paid by any nation; and thus these charitable, though unauthorized interpositions, have had the double effect of lengthening the chains they were meant to break, and of making us at last set a much higher rate of ransom for our citizens present and future, than we probably should have obtained if we had been left alone to do our own work, in our own way. Thus stands their business then at present. A formal bargain, as I am informed, being registered in the books of the former dey, on the part of the Bulkleys of Lisbon, which they suppose to be obligatory on us, but which is to be utterly disavowed, as having never been authorized by us, nor its source ever known to us.

In 1790 this subject was laid before Congress fully; and at the late session moneys have been provided, and authority given to proceed to the ransom of our captive citizens at Algiers, provided it shall not exceed a given sum, and provided also, a peace shall be previously negotiated within certain limits of expense. And in consequence of these proceedings your mission has been decided on by the President.

Since then no *ransom* is to take place without a *peace*, you will of course first take up the negotiation of peace; or if you find it better that peace and ransom should be treated of together, you will take care that no agreement for the latter be concluded, unless the former be established before or in the same instant.

As to the conditions, it is understood that no peace can be made with that government but for a larger sum of money to be paid at once for the whole time of its duration, or for a smaller one to be annually paid. The former plan we entirely refuse, and adopted the latter. We have also understood, that peace might be bought cheaper with naval stores than with money: but we will not furnish them naval stores, because we think it not right to furnish them means which we know they will employ to do wrong, and because there might be no economy in it, as to ourselves in the end, as it would increase the expense of that coercion which we may in future be obliged to practise towards them. The only question then is, what sum of *money* will be agreed to pay them *annually* for peace?

By a letter from captain O'Brien, a copy of which you receive herewith, we have his opinion that a peace could be purchased with *money* for 60,000*l.* sterling, or with *naval stores* for 100,000 dollars. An *annual* payment equivalent to the first, would be 3000*l.* sterling, or 13,500 dollars, the interest of the sum in gross. If we could obtain it for as small a sum as the second in *money*, the annual payment equivalent to it would be 5000 dollars. In another part of the same letter captain O'Brien says, "If maritime stores and two light cruisers [be] given, and a tribute paid in maritime stores every two years, amounting to 12,000 dollars in America, a peace can be had." The gift of stores and cruisers here supposed, converted into an annual equivalent, may be stated at 9000 dollars, and adding to it half the biennial sum, would make 15,000 dollars to be annually paid. You will of course use your best endeavours to get it at the lowest sum practicable; whereupon I shall only say, that we should be pleased with 10,000 dollars, contented with 15,000, think 20,000 a very hard bargain, yet go as far as 25,000, if it be impossible to get it for less; but not a copper further, this being fixed by law as the utmost limit. These are meant as annual sums. If you can put off the first annual payment to the end of the first year, you may employ any sum not exceeding that in presents to be paid down: but if the first payment is to be made in hand, that and the presents cannot by law exceed 25,000 dollars.

And here we meet a difficulty, arising from the small degree of information we have respecting the Barbary states. Tunis is said to be tributary to Algiers; but whether the effect of this be that peace being made with Algiers, is of course with the Tunisians, without separate treaty, or separate price, is what we know not. If it be possible to have it placed on this footing, so much the better. At any event it will be necessary to stipulate with Algiers that her influence be interposed as strongly as possible with Tunis, whenever we shall proceed to treat with the latter; which cannot be till information of the event of your negotiation, and another session of Congress.

As to the articles and form of the treaty in general, our treaty with Morocco was so well digested that I enclose you a copy of that to be the model with Algiers, as nearly as it can be obtained, only inserting the clause with respect to Tunis.

The ransom of the captives is next to be considered; they are now thirteen in number, to wit, Richard O'Brien and Isaac Stevens, captains; Andrew Montgomery and Alexan-

der Forsyth, mates; Jacob Tessianier, a French passenger; William Patterson, Philip Sloan, Peleg Lorin, James Hull, James Cathcart, George Smith, John Gregory, James Hermit, seamen.

It has been a fixed principle with Congress to establish the rate of ransom of American captives with the Barbary states at as low a point as possible, that it may not be the interest of those states to go in quest of our citizens in preference to those of other countries. Had it not been for the danger it would have brought on the residue of our seamen by exciting the cupidity of those rovers against them, our citizens now in Algiers would have been long ago redeemed without regard to price. The mere money for this particular redemption neither has been, nor is an object with any body here. It is from the same regard to the safety of our seamen at large, that they have now restrained us from any ransom unaccompanied with peace; this being secured, we are led to consent to terms of ransom to which otherwise our government would never have consented, that is to say, to the terms stated by captain O'Brien in the following passage of the same letter, "by giving the minister of the marine (the present dey's favourite) the sum of one thousand sequins, I would stake my life that we would be ransomed for thirteen thousand sequins, and all expenses included." Extravagant as this sum is, we will, under the security of peace in future, go so far; not doubting at the same time that you will obtain it as much lower as possible, and not indeed without a hope that a lower ransom will be practicable from the assurances given us in other letters from captain O'Brien, that prices are likely to be abated by the present dey, and particularly with us, towards whom he has been represented as well disposed. You will consider this sum therefore, say 27,000 dollars, as your ultimate limit, including ransom duties and gratifications of every kind.

As soon as the ransom is completed, you will be pleased to have the captives well clothed, and sent home at the expense of the United States, with as much economy as will consist with their reasonable comfort.

It is thought best that Mr. Pinckney, our minister at London, should be the confidential channel of communication between us. He is enabled to answer your draughts for money within the limits before expressed; and as this will be by redrawing on Amsterdam, you must settle with him the number of days *after sight*, at which your bills shall be payable in London, so as to give him time, in the mean while, to draw the money from Amsterdam.

We shall be anxious to know, as soon and as often as possible, your prospects in these negotiations. You will receive herewith a cypher which will enable you to make them with safety. London and Lisbon (where colonel Humphreys will forward my letters) will be the safest and best ports of communication. I also enclose two separate commissions for the objects of peace and ransom. To these is added a commission to you as consul for the United States at Algiers, on the possibility that it might be useful for you to remain there till the ratification of the treaties shall be returned from hence; though you are not to delay till their return, the sending the captives home, nor the necessary payments of money within the limits before prescribed. Should you be willing to remain there, even after the completion of the business, as consul for the United States, you will be free to do so; giving me notice, that no other nomination may be made. These commissions being issued during the recess of the Senate, are in force, by the constitution, only till the next session of the Senate; but their renewal then is so much a matter of course and of necessity, that you may consider that as certain, and proceed without interruption. I have not mentioned this in the commissions, because it is in all cases surplusage, and because it might be difficult of explanation to those to whom you are addressed.

The allowance for all your expenses and time (exclusive of the ransom, price of peace, duties, presents, maintenance and transportion of the captives) is at the rate 2000 dollars a year, to commence from the day on which you shall set out for Algiers from whatever place you may take your departure. The particular objects of peace and ransom once out of the way, the 2000 dollars annually are to go in satisfaction of time, services, and expenses of every kind, whether you act as consul or commissioner.

As the duration of this peace cannot be counted on with certainty, and we look forward to the necessity of coercion by cruises on their coast, to be kept up during the whole of their cruising season, you will be pleased to inform yourself, as minutely as possible, of every circumstance which may influence or guide us in undertaking and conducting such an operation, making your communications by safe opportunities.

I must recommend to your particular notice captain O'Brien, one of the captives, from whom we have received a great deal of useful information. The zeal which he has displayed under the trying circumstances of his present situation has been very distinguished. You will find him intimately acquainted with the manner in which and charac-

ters with whom business is to be done there ; and perhaps he may be an useful instrument to you, especially in the outset of your undertaking, which will require the utmost caution, and the best information. He will be able to give you the characters of the European consuls there, though you will probably not think it prudent to repose confidence in any of them.

Should you be able successfully to accomplish the objects of your mission in time to convey notice of it to us as early as possible during the next session of Congress, which meets in the beginning of November and rises the 4th of March, it would have a very pleasing effect. I am with great esteem, &c.

TH : JEFFERSON.

Rough estimate not contained in the letter.

Peace,	25,000 dollars.
Ransom,	27,000
Clothing and passage,	1,000
Negotiator,	2,000
	<hr/>
	55,000
Sum allowed,	50,000

Mr. Pinckney, then going out as our minister plenipotentiary to the court of London, it was thought best to confide the letter to him ; to make him the channel of communication ; and also to authorize him, if any circumstance should deprive us of the services of admiral J. P. Jones, to commit the business to Mr. Barclay, who it was hoped would by this time be completing the object of his mission to Morocco. The letter was therefore delivered to him, and the following one addressed to himself.

*To Thomas Pinckney. Philadelphia, June 11, 1792.*

DEAR SIR,—The letter I have addressed to admiral Jones, of which you have had the perusal, has informed you of the mission with which the President has thought proper to charge him at Algiers, and how far your agency is desired for conveying to him the several papers, for receiving and paying his draughts to the amount therein permitted, by redrawing yourself on our bankers in Amsterdam, who are instructed to honour your bills, and by acting as a channel of correspondence between us. It is some time, however, since we have heard of admiral Jones. Should any accident have happened to his life, or should you be unable to learn where he is, or should distance, refusal to act, or any other

circumstance deprive us of his services on this occasion, or be likely to produce too great a delay, of which you are to be the judge, you will then be pleased to send all the papers confided to you for him, to Mr. Thomas Barclay, our consul at Morocco, with the letter addressed to him, which is delivered to you open, and by which you will perceive that he is, in that event, substituted to every intent and purpose in the place of admiral Jones. You will be pleased not to pass any of the papers confided to you on this business through any post office. I have the honour to be, &c.

TH: JEFFERSON.

The letter mentioned as addressed to Mr. Barclay was in these words :

*From the President of the United States to Thomas Barclay, Esq. Philadelphia, June 11, 1792.*

SIR,—Congress having furnished me with means for procuring peace and ransoming our captive citizens from the government of Algiers, I have thought it best, while you are engaged at Morocco, to appoint admiral Jones to proceed to Algiers, and therefore have sent him a commission for establishing peace, another for the ransom of our captives, and a third to act there as consul for the United States, and full instructions are given in a letter from the Secretary of State to him, of all which papers, Mr. Pinckney, now proceeding to London as our minister plenipotentiary there, is the bearer, as he is also of this letter. It is some time, however, since we have heard of admiral Jones ; and as in the event of any accident to him, it might occasion an injurious delay, were the business to await new commissions from hence, I have thought it best, in such an event, that Mr. Pinckney should forward to you all the papers addressed to admiral Jones, with this letter, signed by myself, giving you authority, on receipt of those papers, to consider them as addressed you, and to proceed under them in every respect as if your name stood in each of them in the place of that of John Paul Jones. You will of course finish the business of your mission to Morocco with all the despatch practicable, and then proceed to Algiers on that hereby confided to you, where this letter, with the commissions addressed to admiral Jones, and an explanation of circumstances, will doubtless procure you credit as acting in the name and on the behalf of the United States, and more especially when you shall efficaciously prove your authority by the fact of making, on the spot, the payments you

shall stipulate. With full confidence in the prudence and integrity with which you will fulfil the objects of the present mission, I give to this letter the effect of a commission and full powers, by hereto subscribing my name this eleventh day of June, one thousand seven hundred and ninety-two.

GEORGE WASHINGTON.

By a letter of July 3d the following arrangement for the payment of the moneys was communicated to Mr. Pinckney, to wit :

*To Thomas Pinckney, Esq. Philadelphia, July 3, 1792.*

DEAR SIR,—Enclosed is a letter to our bankers in Amsterdam, covering a bill of exchange drawn on them by the treasurer for one hundred and twenty three thousand seven hundred and fifty current guilders, which I have endorsed thus ; “ Philadelphia, July 3, 1792. Enter this to the credit of the Secretary of State for the United States of America. ‘Thomas Jefferson.’” To prevent the danger of interception, my letter to them makes the whole subject to your order.

I have the honour, &c.

TH : JEFFERSON.

ON Mr. Pinckney’s arrival in England, he learned the death of admiral J. P. Jones. The delays which were incurred in conveying the papers to Mr. Barclay on this event will be best explained in Mr. Pinckney’s own words, extracted from his letter of December 13, 1792, to the Secretary of State. They are as follows :

“ As soon after my arrival here as the death of admiral J. P. Jones was ascertained I endeavoured to obtain information whether Mr. Barclay was still at Gibraltar, or had returned to Morocco ; but not knowing his correspondent here ; and Mr. Johnson, our consul, not being able to clear up the uncertainty, it was some time before I learnt that he was still at Gibraltar. The particular injunctions of caution in the conveyance which I received with Mr. Barclay’s despatches, and the secrecy which I knew to be so essential to the success of his operations, determined me to entrust them to none but a confidential person. I accordingly endeavoured to find some one of our countrymen (who are frequently here without much business) who might be induced to undertake the conveyance ; but though in addition to my own inquiries, I requested our consul and several American gentlemen to endeavour to procure a confidential person to undertake a journey for me, without naming the direction, it was a considerable time before I met with success. The

rage for quitting the city, which emptied all the western parts of this town during the summer months, seemed to have swept away all our unemployed countrymen, and the failure of Mr. Short's despatches, for which I could not account, the miscarriage of some of my private letters, added to the extraordinary jealousy and watchfulness of correspondences here, made me unwilling to employ any but an American in this business. At length, however, I prevailed on a Mr. Lemuel Cravath, a native and citizen of Massachusetts, to undertake the delivery of the despatches into Mr. Barclay's hand, whether at Gibraltar or Morocco, and to remain a few weeks with Mr. Barclay, if he should require it, to reconvey his answer; for which service I agreed to pay him one hundred guineas, besides defraying his expenses. No vessel for Gibraltar or any neighbouring port offered immediately; but Mr. Cravath availed himself of the first which occurred, and embarked about a month ago in an English vessel bound to Cales, from whence he may readily get to Gibraltar; so that if the wind has proved favourable, Mr. Barclay may by this time have set out on his mission. I fear the terms of Mr. Cravath's journey will be considered as expensive; but when I reflected on the importance of the object, and the delay which had already occasioned me so much uneasiness. I would undoubtedly have given much more had he insisted on it. I trust, however, that Mr. Barclay could not have arrived at a better time at his place of destination to avoid interruption in his negotiations from the European powers, as their attention is now wholly engrossed by the more interesting theatre of politicks in Europe."

In the mean time Mr. Barclay had been urged to use expedition, by the following letter from hence :

*To Thomas Barclay. Philadelphia, November 14, 1792.*

"SIR,—Your letters to the 10th of September are received. Before this reaches you, some papers will have been sent to you, which on the supposition that you were engaged in your original mission, were directed to admiral J. P. Jones, but in the event of his death were to be delivered to you. That event happened. The papers will have so fully possessed you of every thing relating to the subject that I have nothing now to add, but the most pressing instances to lose no time in effecting the object. In the mean while the scene of your original mission will perhaps be cleared so that you may then return and accomplish that.

"I am, &c.

TH: JEFFERSON."

Mr. Barclay had received the papers, had made preparations for his departure for Algiers, but was taken ill on the 15th, and died on the 19th of January, 1793, at Lisbon. This unfortunate event was known here on the 18th of March, and on the 20th and 21st the following letters were written to Mr. Pinckney and colonel Humphreys.

*To Thomas Pinckney, Esq. Philadelphia, March 20, 1793.*

“DEAR SIR,—The death of Mr. Barclay having rendered it necessary to appoint some other person to proceed to Algiers on the business of peace and ransom, the President has thought proper to appoint colonel Humphrey’s, and to send on captain Nathaniel Cutting to him in the character of Secretary, and to be the bearer of the papers to him. I am to ask the favour of you to communicate to colonel Humphreys whatever information you may be able to give him in this business, in consequence of the agency you have had in it. I have given him authority to draw in his own name on our bankers in Amsterdam for the money deposited in their hands for this purpose according to the letter I had the honour of writing to you July 3d, 1792. I have now that of assuring you of the sincere sentiments of esteem and respect with which I am, &c. TH: JEFFERSON.”

*To Colonel David Humphreys. Philadelphia, March 21, 1793.*

SIR,—The deaths of admiral Paul Jones first, and afterwards of Mr. Barclay, to whom the mission to Algiers explained in the enclosed papers was successively confided, have led the President to desire you to undertake the execution of it in person. These papers being copies of what had been delivered to them will serve as your guide. But Mr. Barclay having also been charged with a mission to Morocco, it will be necessary to give you some trouble with respect to that also.

Mr. Nathaniel Cutting, the bearer hereof, is despatched specially, first to receive from Mr. Pinckney, in London, any papers or information which his agency in the Algerine business may have enabled him to communicate to you. He will then proceed to deliver the whole to you, and accompany and aid you in the character of secretary.

It is thought necessary that you should, in the first instance, settle Mr. Barclay’s accounts respecting the Morocco mission, which will probably render it necessary that you should go to Gibraltar. The communications you have had with

Mr. Barclay in this mission will assist you in your endeavours at a settlement. You know the sum received by Mr. Barclay on that account; and we wish as exact a statement as can be made of the manner in which it has been laid out, and what part of its proceeds are now on hand. You will be pleased to make an inventory of these proceeds now existing. If they or any part of them can be used for the Algerine mission, we would have you by all means apply them to that use, debiting the Algerine fund, and crediting that of Morocco with the amount of such application. If they cannot be so used, then dispose of the perishable articles to the best advantage; and if you can sell those not perishable for what they cost, do so; and what you cannot so sell, deposit in any safe place under your own power. In this last stage of the business return us an exact account, 1st of the specifick articles remaining on hand for that mission, and their value; 2d of its cash on hand; 3d of any money which may be due to or from Mr. Barclay, or any other person on account of this mission; and take measures for replacing the clear balance of cash in the hands of Messrs. W. and L. Willinks and Nichs. and Jacob Van Staphorst and Hubbard.

This matter being settled, you will be pleased to proceed on the mission to Algiers. This you will do by the way of Madrid, if you think any information you can get from Mr. Carmichael or any other may be an equivalent for the trouble, expense and delay of the journey. If not, proceed in whatever other way you please to Algiers.

Proper powers and credentials for you addressed to that government are herewith enclosed. The instructions first given to admiral Paul Jones are so full that no others need be added, except a qualification in one single article, to wit: Should that government finally reject peace on the terms in *money*, to which you are authorized to go, you may offer to make the first payments for peace and that for ransom in *naval stores*, reserving the right to make the subsequent annual payments in money.

You are to be allowed your travelling expenses, your salary as minister resident in Portugal going on. Those expenses must be debited to the Algerine mission, and not carried into your ordinary account as resident. Mr. Cutting is allowed one hundred dollars a month, and his expenses, which, as soon as he joins you, will of course be consolidated with yours. We have made choice of him as particularly qualified to aid under your direction in the matters of account, with which he is well acquainted. He receives here an advance of one thousand dollars by a draught on our bankers in Hol-

land, in whose hands the fund is deposited. This and all other sums furnished him to be debited to the Algerine fund. I enclose you a letter to our bankers giving you complete authority over these funds, which you had better send with your first draught, though I send a copy of it from hence by another opportunity.

This business being done, you will be pleased to return to Lisbon, and to keep yourself and us thereafter well informed of the transactions in Morocco; and as soon as you shall find that the succession to that government is settled and stable, so that we may know to whom a commissioner may be addressed, be so good as to give us the information, that we may take measures in consequence. I am, &c.

TH: JEFFERSON.

Captain Nathaniel Cutting was appointed to be bearer of these letters, and to accompany and assist col. Humphreys, as secretary, in this mission. It was therefore delivered to him, and his own instructions were given in the following letter:

*To Captain Nathaniel Cutting. Philadelphia, March 31, 1793.*

SIR,—The department of state, with the approbation of the President of the United States, having confidential communications for Mr. Pinckney, our minister plenipotentiary at London, and col. Humphreys, our minister resident at Lisbon, and further services to be performed with the latter, you are desired to take charge of those communications, to proceed with them in the first American vessel bound to London, and from thence without delay to Lisbon, in such way as you shall find best. After your arrival there, you are appointed to assist col. Humphreys in the character of secretary, in the business now specially confided to him; and that being accomplished, you will return directly to the United States, or receive your discharge from col. Humphreys, at your own option.

You are to receive, in consideration of these services, one hundred dollars a month, besides the reasonable expenses of travelling by land and sea (apparel not included) of yourself and a servant; of which expenses you are to render an account and receive payment from col. Humphreys, if you take your discharge from him, or otherwise from the Secretary of State, if you return to this place: and in either case, col. Humphreys is authorized to furnish you moneys on account within the limits of your allowances; which allowances

are understood to have begun on the 20th day of the present month, when you were engaged on this service, and to continue until your discharge or return. You receive here one thousand dollars on account, to enable you to proceed.

TH: JEFFERSON, Sec'y of State.

But by a vessel which sailed on the day before, from this port to Lisbon directly, and whose departure was not known till an hour before, the following letter was hastily written and sent :

*To Colonel David Humphreys. Philadelphia, March 30, 1793.*

DEAR SIR,—Having very short notice of a vessel just sailing from this port for Lisbon, direct, I think it proper to inform you summarily that powers are made out for you to proceed and execute the Algerine business committed by Mr. Barclay. Capt. Cutting, who is to assist you in this special business as secretary, leaves this place three days hence, and will proceed in the British packet by the way of London, and thence to Lisbon, where he will deliver you the papers. The instructions to you are in general to settle Mr. B's Morocco account, and take care of the effects provided for that business, applying such of them as are proper to the Algerine mission; and as to the residue, converting the perishable part of it into cash, and having the other part safely kept. You will be pleased to be preparing and doing in this what can be done before the arrival of Mr. Cutting, that there may be as little delay as possible. I am, &c.

TH: JEFFERSON.

Captain Cutting took his passage in a vessel bound for London, which sailed about the 13th or 14th of April; but he did not leave England till the 3d of September; and on the 17th of that month col. Humphreys embarked from Lisbon for Gibraltar, from whence he wrote the letter herewith communicated of October the 8th last past, informing us of the truce of a year concluded between Algiers and Portugal, and from whence he was to proceed to Algiers.

These are the circumstances which have taken place since the date of the former reports of December 28th, 1790. And on consideration of them it cannot but be obvious that whatever expectations might have been formed of the issue of the mission to Algiers at its first projection, or the subsequent renewals to which unfortunate events gave occasion, they

must now be greatly diminished, if not entirely abandoned. While the truce with two such commercial nations as Portugal and Holland has so much lessened the number of vessels exposed to the capture of these corsairs, it has opened the door which lets them out upon our commerce, and ours alone; as with the other nations navigating the Atlantick they are at peace. Their first successes will probably give them high expectations of future advantage, and leave them little disposed to relinquish them on any terms.

A circumstance to be mentioned here is that our resident and consul at Lisbon have thought instantaneous warning to our commerce to be on its guard, of sufficient importance to justify the hiring a Swedish vessel to come here express with the intelligence; and there is no fund out of which that hire can be paid.

To these details relative to Algiers it is to be added, as to Morocco, that their internal war continues, that the succession is not likely soon to be settled, and that in the mean time their vessels have gone into such a state of decay, as to leave our commerce in no present danger for want of the recognition of our treaty; but that still it will be important to be in readiness to obtain it the first moment that any person shall be so established in that government as to give a hope that this recognition will be valid.

Dec. 14, 1793.

TH: JEFFERSON.

*Mr. Humphreys to the Secretary of State. Gibraltar, September 26, 1793.*

SIR,—After a very favourable passage, we landed at this garrison on Sunday last, and the next day proceeded with all the despatch and diligence in our power to unpack the different articles of publick property left here by the late Mr. Thomas Barclay, and to select such as might be proper for the object you propose. We have not as yet made such progress as to enable me to give you the result.

I have seen Mr. Matra, the British consul for Morocco, who informs me there is very little change in the state of affairs since last winter. The harvest was good. The exportation of wheat has been allowed; but is prohibited on the remonstrance of the people who have been so much distressed by scarcity as to dread the consequences of farther extraction.

Mr. Mave, the new British consul for Algiers, is still here. All the intelligence I can gain from that place is contained in a letter of an old date from Mr. Logie to him. At the

time when that letter was written the plague still continued to rage, and ten of the Dutch captives had died of it. The plague has absolutely cut off all intercourse, so that nothing has been heard from the Americans in captivity there, since I was here last winter.

The frigate which escorted Mr. Lucas to Tripoli, returned here yesterday. Mr. Tully, the former consul, who came in it, I understand reports rebellion and confusion to exist in a dreadful degree in that country.

The wind came round yesterday to the eastward, so as to enable the convoy from Leghorn to sail from this port for England. This is a rich fleet, and the first convoy from the Mediterranean since the war.

I have concluded to go to Alicant, and hope (for many reasons) to be able to sail in company with the Portuguese fleet, mentioned in my late letters, and which may be expected whenever the wind becomes fair.

It is confidently asserted that the project for the surrender of Marseilles has miscarried, and that the republicans have made an amazing slaughter of the royalists.

Had not the cession of Toulon taken place on the very day it did, it would almost certainly have been prevented the next day by the arrival of troops in the town. Lord Hood's conduct appears to be considered here as almost rash, though successful, and the issue somewhat dubious, though in some way or another it must be important.

The commanding officers of the combined forces at Toulon have sent to all quarters for succours. The Spanish, English and Royalist forces in that town, amount to nearly 10,000. The former an indifferent corps. The second weak in number (2000) both suspicious of the latter. In several little actions on the outside of the town, the combined troops have had the worst of it. A valuable English officer (belonging to this garrison) of my acquaintance, was killed in one of them. Yesterday three ships of war arrived here from Toulon, to solicit and transport a reinforcement from this garrison. The governour has already named officers of engineers and artillery for that service; and I think he will send some troops without waiting for orders from his court.

General O'Hara, with whom I dined yesterday, informed me, an intelligent correspondent wrote him from Toulon "there is no news from Paris, except that of the death of the queen." This however coming through no other channel, seems doubtful.

Admiral Gell and other officers of high rank write pressingly for all manner of eatables and drinkables. If we had

but the free navigation of the Mediterranean, what an extensive market would be opened for our produce?

With sentiments of perfect respect and esteem, I have the honour to be, &c.

D. HUMPHREYS.

*D. Humphreys to the Secretary of State. Gibraltar, October 8, 1793.*

SIR,—I have already forwarded for you five copies of despatches to inform you that a truce for twelve months was concluded between Portugal and Algiers; and that a fleet of Algerine cruisers had gone through the straits into the Atlantick, on Saturday night last. They were reported to me by an officer of a Portuguese frigate, who spoke with them, to consist of eight sail; I believe, however, there were but three frigates, two xebecs, and a brig. This morning another Algerine frigate was in this harbour, and has gone through the straits to the westward.

To multiply the chances of getting early information to you, I am sending off to order neutral vessels to be chartered at Cadiz and Lisbon to carry my despatches to you, if they cannot otherwise be transmitted by the most expeditious and certain conveyances; and those vessels will be ordered to put into the first port in the United States they can reach. With sentiments of esteem, &c.

D. HUMPHREYS.

*Edward Church, Consul of the United States at Lisbon, to the Secretary of State. Lisbon, Saturday, Oct. 12, 1793.*

SIR,—Yesterday, the 11th, I received the following note from colonel Humphreys, our minister resident at this court, but now at Gibraltar—

“Dear sir,—We have advice of a truce between the Portuguese and Algiers, and that an Algerine fleet has gone into the Atlantick. Pray forward the enclosed with the intelligence, and believe me yours, D. HUMPHREYS.”

Immediately on the receipt of this very alarming news, I called together all the American captains now in this port, and communicated the contents of the above letter, with such farther information as I had a few minutes after obtained from a friendly and always well informed Portuguese gentleman, which was, that on the 5th instant an Algerine fleet, consisting of eight armed ships, had been seen by a Portuguese frigate (just arrived) sailing out of the Mediter-

anean. There were four ships, carrying 44, 36, 30 and 28 guns; three xebecs, 20, 24 and 26 guns, and one brigantine of 22 guns. Their signals to the Portuguese and English are said to be an English jack at the foretop-gallant-mast head, and a flag with blue and white, or blue and yellow strips at the main-top-gallant-mast head.

Early this morning I waited on his excellency Luis Pinto de Louza, minister and secretary of state for foreign affairs, on the subject of this unexpected event, and the unfortunate situation in which it had placed not only the American captains now here, but our nation at large, whose injury seems to have been particularly meditated in this negotiation.

The minister received me with great politeness, and anticipating the cause of my visit, informed me that he was at the moment of my arrival occupied in writing to me on the subject, but was better pleased to see me, as he could more fully and particularly explain the nature of this business to me *viva voce*, than by letter, and assured me that he would candidly communicate to me how far the court of Portugal were concerned, or chargeable for the mischiefs resulting from this truce, to all those powers not at peace with Algiers. He declared that it was as unexpected to the court of Portugal, as it could be to us; and if it was not quite so unwelcome, yet it was by no means agreeable to their court, who never intended to conclude either a peace or truce with the dey, without giving timely notice to all their friends, that they might avoid the dangers to which they might otherwise be unavoidably exposed by trusting to the protection of the Portuguese ships of war stationed in the Mediterranean. He acknowledged that the court of Portugal had about six months past expressed to the courts of England and Spain, a desire of their friendly co-operation to induce a disposition in the dey towards the establishment of a firm and lasting peace with her most faithful majesty; but having appointed no person directly or indirectly to negotiate in behalf of her majesty, they considered the business as only in embryo. But the British court, zealous over much for the happiness of the two nations, Portugal and Algiers, in order to precipitate this important business, very officiously authorized Charles Logie, the British consul general and agent at Algiers, not only to treat, but to conclude for and in behalf of this court, not only without authority, but without even consulting it. A truce was accordingly concluded between the dey and the British agent (for twelve months) in behalf of her most faithful majesty: for the performance of which, on the part of

her majesty, the British court is guarantied. The condition is, that this court shall pay to the dey one third as much as he receives annually from the court of Spain. When this court received information of this proposed condition from Mr. Walpole, the British envoy to this court, they informed him, that however desirous they might be of a peace with Algiers, they were so far from being disposed to submit to such a condition, that it was the determination of her most faithful majesty not to pay one farthing; but in the interval, the truce was signed by the self constituted agent, Mr. Logie.—The minister, Mr. Pinto, farther informed me, that this court had ordered an augmentation of the number of armed ships on the Mediterranean station, so little was their expectation of a peace or truce with Algiers; and intimated that the Algerines would probably ere long be less at liberty to cruise than at present, and mentioned less than a month. But though I have great confidence in his sincerity, and in the good wishes and disposition towards us of many of the Portuguese nobility, and of their sincere hatred of the English, yet the prince is young, weak, and obstinate; and can, and probably will, determine as his own caprice, or Martin de Mello, may direct. The conduct of the British in this business leaves no room to doubt or mistake their object, which was evidently aimed at us, and proves that their envy, jealousy and hatred will never be appeased, and that they will leave nothing unattempted to effect our ruin. As a farther confirmation it is worthy of remark, that the same British agent obtained a truce at the same time between the states of Holland and the dey, for six months, whereby we and the Hans towns are now left the only prey to those barbarians. This last truce has in all probability cost the English very dear, as the Algerines had profited much by captures from the Dutch since the commencement of the late hostilities between the two nations. This will, I fear, give a fatal stroke to the advantages which we might otherwise have derived from our neutrality.

Monday 14th. I have just received a letter from Gibraltar of the 8th, with orders to charter a vessel to carry the intelligence to you, copy of which letter I send herewith. At this moment a Swedish vessel arrives. On the 9th, in lat. 38 13, she was boarded by an Algerine frigate. At a small distance she saw another which had just captured four Americans, two brigs, one ship and one schooner; and one Genoese ship. She was informed of the truce, and that it was for twelve months with both Holland and Portugal. I have forwarded letters by expresses, wherever I thought it ne-

cessary, to notify our citizens of their danger. We are betrayed, and many, many of our countrymen will fall into the cruel snare. I send you a list of those in this port. I have chartered a ship this moment for £800 sterling to carry my despatches. She sails to-morrow. They will be delivered to you by Mr. Livingston, to whom refer you for farther particulars, which, in my great hurry, I may omit. I have not slept since receipt of the news of the hellish plot—pardon me for such expressions. Another corsair is in the Atlantick. God preserve us.

I have chartered the vessel to go and return with a cargo of wheat or flour to this port or Cadiz for £800 sterling. Her freight back will go far to pay the expense of her hire.

If it should be thought that I have chartered the vessel at a high price, I wish the government to be informed that all the protected ships demand at least double since the confirmation of this Algerine news; and I have been rather favoured in the contract which I have made, and therefore hope no blame will fall on me, but that I shall be enabled by the government to fulfil my engagement.

It is a matter of certainty which I have received from undoubted authority, though contradicted by the minister Luis Pinto, and at present a great secret, that one of the present Portuguese ministers is in this execrable plot; a plot loudly and publickly execrated by this nation. I asked if it was Martinio de Mello? and was answered that all his consequence and his pecuniary resources were derived from the Mediterranean fleet, or Algerine war, and of course no suspicion could justly fall on him. Was it the secretary Luis Pinto? My informant only knew at present that one of the four ministers had been privy to the whole transaction, but could not fix it; but could and would tell me very soon. At present he seemed disposed rather to suspect the first minister, the marquis Ponta de Lima, because he was the inveterate enemy of Martinho de Mello, whom my author heard say on a former occasion to an ambassador on his taking leave of the court to go to Algiers to negotiate a peace—"Sir the ships attend you; you will therefore proceed without delay on your embassy. But remember what I have said, and what I now repeat as of the greatest consequence, (meaning to himself) if you succeed in making a peace you will do well, but if you should not succeed, you will do much better." The relation of these circumstances, though trivial in themselves, may possibly enable you to form a more adequate idea of this court than I should be able to give you. It is with this view I trouble you with them.

One of the frigates now cruising under Algerine colours was a present from the king of Spain, but not very lately; and one is certainly a *very late* present from the British king. I am, sir, &c.

EDWARD CHURCH.

*D. Humphreys, Esq. to the Secretary of State. Gibraltar, Oct. 7, 1793.*

SIR,—I wrote you under yesterday's date, letters to be forwarded by four different conveyances, containing information that a truce for twelve months was concluded between Portugal and Algiers; and that a fleet of eight Algerine cruisers had gone through the straits into the Atlantick.

I observed in a postscript, that I should afterwards explain by whose instrumentality the truce was made. I have now to inform you it was effected by Mr. Logie, consul of Great Britain at Algiers: but I am very happy to add, there are strong circumstances to induce me to believe, it was without the authority or even knowledge of his own court, from which (I am most credibly assured) he has not received any direct official communications for fourteen months past. This was owing to his having been recalled, and a successor appointed for that residence. By what I have learned in a confidential manner, from good authority, Mr. Logie wishes to remain at Algiers until the final negotiation between that regency and Portugal be concluded.

The strong easterly wind, called the *Levanter*, has prevented the Portuguese convoy, mentioned in my late letters, from proceeding any distance up the Mediterranean. The same cause still detains the English ships with troops on board in this harbour, though a second vessel has arrived with despatches from lord Hood to accelerate their departure. In consequence of this last arrival, some more artillerymen, with field artillery, have been detached from this garrison; and general O'Hara, (the lieutenant governor) is going to take the chief command at Toulon.

By yesterday's mail we have nothing but an account of the duke of York's repulse, with the loss of his cannon and baggage; and a considerable advantage gained by the Spaniards over the French near Perpignan. I have the honour to be, &c.

D. HUMPHREYS.

P. S. I shall prosecute my former plan of proceeding to Alicant, the moment the wind will permit.

*Copy of Mr. Church's first Letter to Messrs. Jacob Dohrman & Co. Lisbon, Oct. 15, 1793.*

SIRS,—I am informed that you have an inclination to charter a Danish ship to send to America on speculation, but that the difference of about one hundred pounds sterling prevents the bargain being closed. I think it probable that neutral ships of that description will readily obtain an high freight in any port of the United States. But if an hundred pounds sterling will induce you to close the charter immediately, put the ship in immediate readiness, so as to sail in all this week, if possible, and will change her proposed destination, which I understand is to Baltimore, for New York or Philadelphia, in order that I may send duplicates of some despatches to our government, I will engage to pay you, in behalf of the said government, one hundred pounds sterling, on demand, in Lisbon, after advice of the safe delivery of said despatches into the hands of the Secretary of State for the United States of America; provided advice should not be received of the payment of said sum in America by the return of your ship to Europe, which I shall recommend in a letter to the Secretary of State accompanying my despatches. I am sirs, yours, &c.

EDWARD CHURCH.

*Copy of Mr. Dohrman's Answer to the above. Lisbon, Oct. 15, 1793.*

SIR,—I presume you are no stranger to my strong attachment to your government, and that I am perfectly disposed to render every possible service to the United States of America; but the freight demanded for the Swede or Dane is so high, as may expose me to great loss, which I am sure you would not wish; but if you think you can venture to add another fifty pounds, I will take the risk for one hundred and fifty pounds sterling, and change her destination for New York, and will take charge of a messenger with your despatches deliverable at that place.

Fifty pounds can be no object to the United States, but may be of consequence to an individual. If this proposal should be acceptable to you, I will close with one of the captains immediately.

For the payment you will give me a bill for the above sum, to be paid to the order of my house, after delivery of the despatches in America, according to the then current exchange upon London. I am, sir, &c. JACOB DOHRMAN.

Edward Church, Esq.

*Copy of Mr. Church's Letter to Mr. Dohrman, in Answer to the foregoing. Lisbon, October 15, 1793, 2 o'clock P. M.*

SIRS,—Your favour in answer to my proposals of this morning is just received. The good character of the vessel, and a reliance on your exertions to put her to sea immediately, and that you will not detain her a moment for any freight more than is already absolutely engaged, induce me to comply with your demand of fifty pounds more than I proposed; and will accordingly give you a bill for one hundred and fifty pounds sterling upon the conditions already stipulated.

At the same time I wish you to understand, that I am acting in this business without any special authority, and I consider myself warranted solely by the importance and extreme urgency of the occasion, but should the Secretary of State be of a different opinion, and therefore think that he is not authorized to honour my bill, you will then be pleased to consider that it is an error in judgment on my part, and that neither the honour of the United States, or my credit, are or ought to be any way affected by this transaction, and you may rely on being fully indemnified by me on receipt of the protest. I am, sirs, yours, &c. EDWARD CHURCH.

*D. Browne, to E. Church, Esq. Oporto, October 15, 1793.*

SIR,—I received yesterday noon, by an express, the honour of your very esteemed favour of the 11th instant, to desire me to inform the masters of the vessels from the United States of America, that may be here or in the neighbouring ports, that in consequence of a truce being concluded and signed between the crown of Portugal and Algiers, an Algerine fleet had sailed out of the Mediterranean on the 5th instant, consisting of four large frigates, two xebecks, and one brig, from 22 to 44 guns, and accordingly to desire them not to proceed to sea, till they hear from you again, as several of these pirates are now hovering round your's and this coast. Immediately on the receipt of your letter, I sent for the masters of the only two American vessels that we have here remaining, viz. Snow Phenix, Isaac Rea master, from Salem; ship Patty and Julia, Charles Dickenson, from New London. They both acknowledged their most grateful thanks for your caution in warning them by express, that they might escape the danger that awaited them, and will not proceed till your further orders. Unfortunately on the 11th instant sailed from hence the schooner Fayette, captain Wyatt, and the brig Rozanna, captain Hooker Baxter, both bound to

Boston. God grant to have preserved them from the sight of such an infamous and cruel enemy. I dont hear that there be any American vessels in the ports of Viana, Caminha, or Avorico, but I am going immediately to write to these several ports, to transmit them your instructions. I have to acquaint you, sir, that last week entered this port an English letter of marque named the Oporto, captain Hamilton, from Liverpool, who captured on his passage here an American vessel named the the Birmingham, William Foster, master, bound from Baltimore to Amsterdam, on suspicion of his being destined to some port in France, her cargo consisting as per note enclosed, and by which you will please to observe that the three black sailors therein mentioned, are free American born, and notwithstanding, they are forced to remain on board against their will. I have the honour, &c.

Edward Church, Esq.

DOMCK. BROWNE.

P. S. Contents of the cargo of the American vessel the Birmingham, Wm. Foster, master, taken on her passage from Baltimore to Amsterdam, by the English vessel the Oporto, captain Hamilton, who sent her to Liverpool, viz.

290 hhds.	Tobacco,	
145 bbls.	}	Coffee,
71 hhds.		
13 tierces,		
490 bags	}	Cocoa,
90 bags		
10 bbls.		
58 hhds.	Sugar,	
23 bales	}	Skins,
3 puncheons		
49 bundles	}	Sarsaparilla,
2 cases		
7,000	Staves.	

The captain and three men were conveyed to Liverpool. The mate, one sailor and three negroes brought to Oporto. The two former are already gone for America, and the negroes detained on board the Oporto.

*Mr. Church to His Excellency Luis Pinto de Souza. Lisbon, October 21, 1793.*

SIR,—I waited on your excellency the 19th inst. at Quehuz, but was unfortunately deprived by your absence of the honour of an interview; I therefore take the liberty to ad-

dress your excellency by letter, and to solicit in behalf of my fellow citizens now in this port, protection and safe conduct out of the reach and danger of the Algerine corsairs now on this coast. My countrymen have been led not less innocently than the citizens of the Hanseatick Towns into their present embarrassment by confiding in the friendship, power and protection of her most faithful majesty, who having long kept a fleet stationed in the Mediterranean for the purpose of confining those pirates within circumscribed limits, and to secure freedom of commerce to her friends and her own kingdom, had nourished that confidence, and of course lulled our citizens into a fatal security. This confidence, however, so far as respects the purity of her majesty's intentions and the good faith of her ministers, appears still to be well founded; this belief I have no less authority than your excellency's declaration to me, and it is upon this presumption that I take the liberty to request your excellency's mediation with her most faithful majesty that she will be graciously pleased to grant the same relief and protection to the citizens and ships of the United States, as her majesty has offered to those of the Hanseatick Towns, in consideration of our being in the same predicament, and from the same cause, and that we are a nation in no view less friendly, and in every view *at least* equally useful and important to this kingdom at present, without advertent to our future probable consequence to those nations who shall favour us with their friendship. Permit me to hope, sir, that these considerations will have weight, and that the justice of our claim will supersede the necessity of an absolute existing treaty between this kingdom and the United States, and the more, as your excellency will be pleased to recollect that endeavours have not been wanting on our part, long ere this, to have connected our interests with this nation by the strongest ties, in which though we doubtless had a view to our own advantage, yet I am persuaded it was our equal aim to have formed the treaty upon such a basis as would have proved reciprocally advantageous, without which we were well aware that it could not be durable: I would therefore hope, that her most faithful majesty will not deny us the favour we ask because we are not so closely connected with your nation, as we wish, and have endeavoured to be. When I had the honour of an interview with your excellency on the 12th instant, on the subject of your truce with Algiers, it appeared to me by an article in the said truce, that her majesty was restricted from affording protection to any nation at war with Algiers; but as this restriction has been dispensed with in favour of one nation, I

would humbly hope and presume that the same power will be extended towards the citizens of the United States, who I trust have an equal claim to her majesty's favour and protection.

I have chartered a second neutral ship to carry the duplicates of my despatches to America, which will be ready to sail to-morrow, but as your excellency's answer to this petition will be among the most important matters which I shall have to communicate, permit me to request that favour as soon as circumstances will permit. I have the honour to be, &c. &c.

EDWD. CHURCH.

*Mr. Church to the Secretary of State. Lisbon, Tuesday, October 22, 1793.*

SIR,—On Saturday the 19th instant the vessels belonging to the Hanseatick Towns were ordered to be in readiness to sail the 25th, under convoy of two Portuguese frigates, ordered by her majesty to convoy them to a certain latitude. One of the articles of the truce with Algiers which was communicated to me on the 12th instant, by Luis Pinto, the minister for foreign affairs, expressly restricted the Portuguese from affording protection (without exception) to any one nation. Nevertheless the consul and agent for the Hanseatick Towns, petitioned for a convoy; and strongly urged a right founded on a prior treaty, of a very ancient date, existing between the two nations. This was generally understood to be the principle upon which the convoy was granted, and was so publicly declared by the agent; but I had strong reasons to believe that this government were by no means pleased with the conditions of the truce, or the manner in which it had been negotiated *for* and not *by* this nation, and that though they did not think proper formally to disavow and reject it, yet that they would not be displeased if a plausible pretence should offer to break it. I was also convinced that a great majority, if not the whole nation, were extremely offended for various reasons; they conceived it intended not only to throw on them the odium of the manifest treachery in the business, but that it was also aimed at their navy, which was now an object of their particular attention, and which for want of some employment would again sink into neglect, which they suppose to have been one object of the English in so eagerly precipitating this truce. Upon the presumption that such was the general opinion, and my knowledge that the Spanish ambassador when at court, on the 15th instant, had been treated rather roughly by all the

nobility present when he congratulated the prince on the happy event of the truce, I wrote a letter to the minister yesterday of which I transmit you a copy per this opportunity; and as I have been diligent in my inquiries prior to my writing, and am particularly favoured with the interest and support of two very distinguished personages here, who have honoured me with some particular attentions, I am greatly flattered with hopes of success. If I find there is a prospect of a speedy and favourable answer, it is probable I may detain the vessel a day or two in order to convey such intelligence which will be so very important and acceptable to the United States.

I have taken the liberty to draw on you the 19th instant, for one hundred and fifty pounds sterling, in favour of Messrs. Jacob Dohrman and Co. as a compensation for their chartering a ship at a price which they had before refused, for altering her destination agreeable to my request, and for suffering the vessel to go with only two-thirds the quantity of salt which she would otherwise have carried, in order that the vessel might sail faster, so as to deliver the duplicates of my despatches with all possible speed. This bill I trust will be duly honoured, though I had no special orders, as I conceived the object of two great consequence to trust to one conveyance, and therefore hope my conduct will meet your approbation. With perfect esteem and respect I have the honour to be, &c.

EDWD. CHURCH.

P. S. I cannot give a stronger proof of the sincerity of the disgust and disappointment of this court, on account of the truce with Algiers, than that the Spanish and British ministers were unsuccessfully opposed to the granting us a convoy; this comes from the best authority; even Martinho de Mello favoured us in this instance. In short the British have lost ground by this left-handed policy, and the general opinion that I do not love them over much is now no small recommendation of me. I think this would not be an unfavourable moment to propose a commercial treaty upon a broad and liberal basis. The advantages could not fail in every view to preponderate in our favour. I wish this may be taken into immediate and serious consideration, as our commerce with this country holds out very many advantages to the United States, if under proper regulations.

*Translation of a Note from Luis Pinto de Souza, Secretary of Foreign Affairs at Lisbon, to Edward Church, Consul for the United States.*

IN answer to the letter you addressed to me of yesterday's date, on the protection and convoy which you solicit in favour of the vessels of the United States of America which have to sail to their destinations, in danger from the cruisers of Algiers, I am ordered to inform you that her most faithful majesty, desirous of manifesting to the said States whatsoever may benefit their navigation or commerce as far as may be compatible with her own supreme justice, is very ready to give her royal orders that the vessels of the said States shall enjoy in their passage, the same protection which she has ordered to be extended to the vessels of the Hanseatick Towns until the conclusion of the ratification of the truce adjusted between her most faithful majesty and the regency of Algiers. Provided nevertheless, that the vessels of the United States which shall desire to shelter themselves under the protection of the said convoys, shall unite and assemble in sufficient number to merit to be convoyed; as this measure cannot be practised in favour of a few, for clear reasons which manifest themselves. I am with the greatest esteem, sir, your servant,

LUIS PINTO DE SOUZA.

Palace of Queluz; Oct. 22, 1793.

*Edward Church, Esq. to the Secretary of State. Lisbon, October 22, 1793. P. M.*

SIR,—I wrote you this morning that I had written to his excellency Luis Pinto, minister, &c. &c. I herewith send a copy of my letter, and at the same time have the pleasure to enclose a most favourable, friendly, and pleasing answer from his excellency which I have this moment received, and which you will immediately see the necessity of communicating by expresses to all parts of the Union, that our merchants may not be exposed to the heavy premium of a supposed desperate risk. I have also the pleasure to inform you from good authority, through a secret but direct channel, that a remonstrance was yesterday presented to the prince by some of the highest and most influential of the nobility, wherein they state, that the late truce has greatly dishonoured this nation; that to ratify it would be to render the disgrace indelible; or even to accede to a peace or truce on the terms once offered by this nation, which were to withdraw their ships from the Mediterranean, but to pay nothing. They say it is now be-

neath the dignity of the crown to accept the offers of peace from that nation (supposing a peace admissible with those piratical *infidels*) upon any other terms than a full indemnification for all expenses in maintaining their naval armament for about ten years in the Mediterranean for the protection of their commerce against the hostilities of that nation ; and declare that it would be far better and more honourable for the nation to maintain eternal war against them, than to consent to a peace or truce on any other terms. This is the present state of this English Portuguese truce, which, from present appearances, promises no duration. It is also whispered, but not from equal authority, that orders are gone to the Portuguese fleet in the straits not to suffer any vessels captured by the Algerines to be carried into Algiers, if it should appear that they were bound to or from any port belonging to the dominions of Portugal. I inquired concerning the truth of this report from one who is very able, and on all possible occasions perfectly disposed to give me every information which he thinks may concern me to know. His answer was, Our fleet in the Mediterranean have no authority that I know of from this court, to know or believe any thing about a peace or truce with Algiers ; if they have any such information it is from a different quarter.

I have it from *good authority* that there has been a very severe action between the French and the whole force of Sardinia, collected and commanded by the king in person. The battle is said to have been long and bloody ; but the latter were finally routed and pursued with very great slaughter, both on the field of action, and in the pursuit. The king of Sardinia was on his march towards Nice, near which he expected to meet the French, and intended to give them battle, but the French advanced about four leagues from Nice, when the above mentioned action ensued.

This court seems to be very much alarmed at a report circulating in the palace, that the king of Prussia proposes to withdraw his forces from the field of action, and to retire to his own dominions in peace. Various causes are assigned for this extraordinary and unexpected manœuvre. It is certain that the report has made a very considerable impression on this court, which encourages me to hope it is not without some foundation.

There are sixteen American vessels now in this port. I have requested them to get ready for sea as fast as possible, when the convoy will be ordered to attend them. There are about 30 ships from the Hanseatick Towns now here : they are ordered to be ready on the 25th. We have no orders yet. I am, sir, &c. EDWD. CHURCH.

*List of American Vessels in the Port of Lisbon.*

Brig Lively,	Elisha Mayhew,	Newburyport.
Ship Wilmington,	John M <sup>c</sup> Gee,	Wilmington, D.
Brig Nancy,	Edwd. Goodriche,	Newburyport.
Brig Union,	John Keaquick,	New York.
Ship America,	George Bright,	New York.
Brig Nancy,	John Harris,	Philadelphia.
Brig Leopard,	Rob. Goodbridge,	Beverly.
Ship Lark,	John Munro,	Providence.
Brig Recovery,	Charles Hazard,	Rhode Island.
Brig Brandywine Miller,	Danl. Man,	Philadelphia.
Brig John,	John Barrett,	Norfolk, Va.
Brig Sukey,	Christ. R. Perry,	Providence.
Ship Joseph,	Joseph M <sup>c</sup> Lellan,	Portsmouth, N.H.

N. B. The schooner Violet, captain Babson, sailed for Boston the 7th instant, and has probably escaped. The brig Betsey, captain Joshua Atkins, sailed for Boston the 9th. The bark Henry, captain Roberteau, from Newburyport, is arrived this morning from Virginia, but last from Falmouth, saw nothing of the Algerines. EDWD. CHURCH.

Lisbon, October 15, 1793.

1793, Sunday, October 20. Arrived in this port the schooner Alice, or Elsy, of Boston, but last from North Carolina. Same day, arrived the brigantine Betsey, of Portsmouth, but last from Virginia, and reports that thirteen vessels were ready to sail about the same time, eleven for Cadiz, and two for Lisbon. These vessels had seven weeks passage.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO PORTUGAL AND ALGIERS. DEC. 23, 1793.

SINCE the communications which were made to you on the affairs of the United States with Spain, and on the truce between Portugal and Algiers, some other papers have been received, which, making a part of the same subjects, are now communicated for your information.

GEORGE WASHINGTON.

## TRANSLATION.

*J. de Jaudenes to the Secretary of State. December 18, 1793.*

SIR,—In addition to the various papers which on different occasions we have had the honour to put into your hands relative to the affairs of the Indians, our neighbours and allies, we have now the pleasure to transmit you a copy of extracts concerning this subject which we have lately received from the governour of Louisiana.

Its contents will confirm to you the reason with which we ought to complain of the conduct observed by the several agents of the United States on those frontiers.

At the same time you will observe the salutary measure which the said governour proposes, to put an end to such atrocities and disorders as have been committed, and, as is probable, will continue until an efficacious remedy be applied.

What is mentioned in the enclosed copy appears to have all the requisites of humanity, good faith, and sincere correspondence.

In this expectation we request you to be so good as to give information of the whole to the President of the United States, to the end that these may determine what they shall judge convenient: seeing how much good may be produced by the friendly convention proposed, and how much evil by the omission of it.

We repeat assurances of the most sincere good will and greatest respect, and have the honour to subscribe ourselves,  
sir, &c.

JOSEPH DE JAUDENES.

In the absence of Joseph de Viar,

JOSEPH DE JAUDENES, for him.

## TRANSLATION.

*Extract of a Letter from the Governour of Louisiana, relative to the Affairs of the Indians. New Orleans, Oct. 28, 1793.*

THE Cherokee nation, furious for the assassinations committed at the Hanging Maws on several of their principal chiefs, and for the repeated hostilities of their neighbours, the Americans, have taken the field to the number of six or seven hundred warriors, to avenge themselves of such outrages as appears by the enclosed extract of a letter, which I have lately received from a principal person residing in the same nation; of whom the Americans having conceived some suspicion offered five hundred dollars as a reward for his head: a disgraceful measure which people who value themselves so much for humanity and equity ought in my

opinion to be ashamed to teach to men, savage indeed, but ignorant nevertheless of such perfidies. The pains which I have taken to tranquillize the Cherokee nation have been rendered useless by the bad faith and the insults of their neighbours ; insomuch that I see myself in a situation either to ruin the confidence and good opinion with which I have inspired them as to the Spanish nation, or to aid them with arms and ammunition until I shall receive information of the determination which his majesty has taken in consequence of the petition which that nation has addressed to him. I will endeavour to satisfy them with some little matter of ammunition, which will be given to those Indians, as well at Pensacola as at Mobile, by way of present, and conformably to what we have been used to practise with the other nations our allies.

In the confines of Georgia the Americans have provoked equally the Creek nation by the burning of the towns Hotchleteaga, and of Chatehouchy, killing in both several men, and taking away women, boys, and children. The burning of the first town took place the 21st of September, and of the 2d the 26th of the same month. There was at the time in the Indian town of Ocfasky, a little way distant from the burning of Chatehouchy, a commissary Seagrove, an agent of Congress, with speeches of peace, who would have paid with his head that burning, if he had not been protected by the white Lieutenant of Ocfasky, and an agent of Mr. Panton.

At a meeting held by the chiefs of the upper and lower Creeks, the 27th day of August, they determined to divide themselves into four bodies, and to pass the river Oconee at different places, and on the same day, to attack the possessions of the Georgians. However, our commissary, captain Peter Olivier was able to make them desist from their enterprise, by threatening to retire from the nation, and to leave them abandoned by Spain.

After the burnings before mentioned, it was impossible to restrain those Indians in their resentment, so that various parties of them went out for war ; and the towns petitioned us for arms and ammunition. The commissary of Congress, Seagrove, remains at Rocklanding, from whence he is to go to the Indian town of Tokepatchy, with new propositions of peace.

From what is here related, of which you will make the proper use, it is clearly evident, that the Americans of the frontiers are those who provoke the Indians with hostilities ; and that far from exciting these against those, they owe to us the little efficacy with which hitherto they have repelled their

insults. If Congress desires peace in good faith with our allies, and especially with the Creeks, the President may charge the commissary Seagrove for that purpose, who may see the king's commissary in the said nation, Peter Olivier, treating with good harmony on all the subjects which divide the Creek nation and the Georgians, and leaving in suspense the questions of limits under conference of Madrid. Peace will quickly be re-established, as is equally desired by the Indians and us.

In fine, if Congress determine to send very strict and efficacious orders to put a stop to all kind of hostilities and vexations against the Cherokees, I pledge myself equally to persuade that nation that their interests require that they should live in the most perfect harmony. And I do not doubt that I shall obtain it from those Indians, whose information is much superior to that of the other savages.

I have succeeded to re-establish peace between the Creek and Chickasaw nations; but it is not just that while we are exerting ourselves to tranquillize the minds and suppress the projects of vengeance of those Indians against the American establishments, their governours should be endeavouring to foment war among our allies by sending arms, as was the case in the beginning of this year by lieutenant Clark, who landed at Margot, at the head of thirty armed gun men, with a convoy of Indian corn, 500 fusees, 4000 lbs. ball, a great quantity of powder, salt, &c. to Piamingo, a chief of the Chickasaw nation, who has always fomented in a party adverse to the interests of the king, and desiring the continuation of the war; while on my part I have refused arms and ammunition to both nations. While that should continue I have to desire that you will obtain from Congress the strictest orders to governour Blount, Robertson, and the other officers employed in their western establishments, that they abstain from fomenting the turbulent spirit of the chief Piamingo, and from sending medals and patents to the other chiefs of our nations, as we observe rigorously with respect to theirs; and finally that they do not undertake in future to send armed troops on the Mississippi, with a visible infracton or contempt of the territory of his majesty, which might happen to beget hostilities on the one side or the other.

THE BARON DE CARONDELET.

To Messrs. Joseph Jaudenes and Joseph Viar.

A Copy.

JAUDENES.

*J. de Jaudenes to Governour White. Cherokees, September 12, 1793.*

SIR,—The bearer of this is the Little Turkey, whom, without any previous acquaintance, I take the liberty to beg leave to introduce to your excellency's civility and attention, as one of the chiefs of the Cherokees.

As this nation are likely to be reduced to a very distressing situation, his chief business to Pensacola is to obtain a present supply of ammunition.

Your excellency no doubt are acquainted how the present dispute between the Indians and the Americans originated, by first murdering a number of their people under the faith of government assembled at the Hanging Maws, at the earnest solicitation of governour Blount and other agents of the United States. Since then the whites have committed a number of outrages by killing women and children, and in fact all they could find without distinction. All this while the Cherokees have done nothing to justify such treatment. So many repeated violences instigated part of the nation to turn out to take revenge. They are now started to the number of six or seven hundred.

When the Indians came to the determination of carrying on an expedition, it was agreed in council that the traders should bring them a present supply of ammunition, which the traders agreed to do; that is, one horse load each. Some that do not go down send a horse to bring it up for them.

The supply wanted for the present will amount only to 14 horse loads; that is 700 pounds powder, 1400 ball. This, however, is only my own opinion. But I think there will not be horses sent to bring more this winter than what will bring the supply mentioned.

Es Copia.

JAUDENES.

*The Secretary of State to Messrs. Viar and Jaudenes. Philadelphia, Dec. 21, 1793.*

GENTLEMEN,—I have to acknowledge the receipt of your favours of November 30 and December 13, which have been laid before the President, to whom every evidence of a disposition in your agents to keep the Indians in peace gives real satisfaction. It is a conduct, which, if pursued with good faith both by Spain and us, will add to the prosperity of both, and to the preservation and happiness of the Indians. The event which is said to have taken place at the Hanging Maws wears a complexion to meet the most entire disappro-

bation of the United States. It is not yet, however, so developed in all its circumstances as to authorize me to express their definitive judgment on it. This will be the office of the court before whom prosecutions were immediately instituted against the persons charged with the fact. I may say with safety in the mean while, that they will approve at no time of any act which shall be either aggressive or unjust towards our Indian neighbours. I flatter myself that your residence among us must have convinced you that atrocities of the nature of those charged on that occasion, are not in the spirit of our government, and must have satisfied you how groundless is the base calumny repeated by the governour of Louisiana of a reward of 500 dollars offered for the head of an individual *by the Americans*, if by that term he means those in authority; and if he means unauthorized individuals, it would hardly seem to justify his very general invective.

This officer undertakes, too, in a case of hostilities between us and the Indians, to decide that we are the aggressors; and that Spain, a neutral nation, may furnish them with arms and ammunition.

His remonstrating against the passage of our citizens along the Mississippi, even above the 31st degree, and his appropriating to Spain the nations of Indians inhabiting above the same limit, will not be noticed at a moment when a higher solution of those questions is expected. Till then we rely on the justice of your government, and your own dispositions to inculcate it, that your agents will be inhibited from taking any part between us and the Indians inconsistent with the friendship which we hope will ever prevail between us, and which we shall endeavour sincerely to cultivate by every act of justice and good neighbourhood. I have the honour to be, &c.

TH: JEFFERSON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO LETTER FROM REPRESENTATIVES OF SPAIN.  
DECEMBER 30, 1793.

I COMMUNICATE to you the translation of a letter received from the representatives of Spain here, in reply to that of the Secretary of State to them of the 21st instant, which had before been communicated to you.

GEO. WASHINGTON.

*Messrs. Jaudenes and Viar to the Secretary of State. December 26, 1793.*

SIR,—A part of the contents of the letter with which you honoured us on the 21st instant, in answer to our two last, does not permit us to pass in silence some reflections which occur to us on that subject.

You consider as a base calumny the expressions of the governour of Louisiana, when he speaks of the reward of 500 dollars offered for the head of an individual *by the Americans*. As for the manner in which the said governour explains himself, in all the papers, there can be no doubt, and we affirm that he is persuaded that the executive power of the United States does not authorize the depredations which are committed on those frontiers. We do not stop to vindicate him on that point. It remains then to do it as to the general word Americans; and as to that, nothing is more usual in our idiom than to make use of it to distinguish them from those of other nations, without extending it to the generality of them. Thus it happens in the present case, in which the object was, to distinguish the Georgian Americans who were intended by the word from the Indians.

Your other censure for having called the said Americans the aggressors in the present hostilities requires in our opinion very little comment, since having proved so many times our good disposition to prevent them, and having produced incontestable documents that the Georgians and some of the agents of the United States have fomented them, it appears that the said governour does not calumniate in repeating on proof the hostile acts which are committed on those frontiers by the said agents and individuals. The opposition which the said governour has hitherto made, and intends to make, to the passage along the Mississippi by the citizens of the United States, above the 31st degree of latitude, is neither unjust nor extraordinary, since you well know that we have been, are, and will remain, in possession of it, until by agreement or force, we yield our right.

That the governour administers arms and war stores to the nations of Indians who inhabit the territory in question, is as little extraordinary, and it would be unjust were he not to do it, since he would fail in good faith under the treaties executed between Spain and the different nations of Indians in the year 1784, of which we had the honour of sending you a copy on a former occasion.

It follows, then, that the governour having denied to the Indians arms on some occasions, and given them scantily on

others, has manifested his favour and good disposition towards the United States, an action, which, instead of being disapproved by the government of the United States, ought to be considered as entitling him to praise and the greatest thanks.

We agree with you that it is of the greatest moment to preserve good faith and friendship on our part, and on that of the United States. As to what depends on ourselves and the nation which we have the honour to represent, nothing has been or will be omitted, which may contribute to so pleasing an end, as we have promised heretofore, and confirm now, hoping that the United States will do the same on their part. In proof of it we mentioned the plan which to the governour of Louisiana and to ourselves, appeared very proper to conciliate the minds of the subjects of the king our master on that frontier, the citizens of the United States, and the intermediate nations of Indians, to which we have not received answer.

We pray you to inform the President of the United States of the contents of this letter, and we flatter ourselves that his well known justice and superior understanding will adopt the measures which he shall deem the most energetick, and which may produce the most convenient temporary remedy until the radical cure shall be effected, which we may hope from the negotiation on foot at our court, observing the principles of reciprocal justice, good faith, and generosity. We have the honour to subscribe ourselves, &c.

JOSEPH DE JAUDENES,  
JOSEPH IGNATIUS DE VIAR.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO LETTERS FROM FRENCH MINISTER. FEBRU-  
ARY 7, 1794.

I TRANSMIT to you an act and three ordinances passed by the government of the territory of the United States south of the river Ohio, on the 13th and 21st of March, and 7th of May, 1793.\* And also certain letters from the minister plenipotentiary of the French Republick to the Secretary of State, enclosing despatches from the general and extraordinary commission of Guadaloupe. GEO: WASHINGTON.

[\* These documents omitted, having no connection with our foreign relations.]

## TRANSLATION.

*The General and Extraordinary Commission of Guadaloupe, to the Congress of the United States of America.*

CITIZEN REPRESENTATIVES,—An immense conspiracy is formed against the Republick of France. Honour and the law of nations have been put out of the question. Even neutral powers have not been respected. Your flag, especially, far from being a sufficient safeguard, is no longer more than the sport of the cupidity and fury of our enemies. This is the system of war. They are no longer the old quarrels of courts which lead them to take up arms. They have forgotten all, sacrificed all, in order to league together and to stifle in its birth the liberty of a great people, who are in the centre of the continent, and who give umbrage to their ambition. And it is England, who, in the noble policy with which she honours herself, has for some time prepared and accomplished this plan of destruction : so factitious and false is the spirit of liberty with which that government amuses the English people.

You have also been forced to shake off the yoke ; and would you have done so, if the government were just ?

However the French succoured you on this important occasion, whatever might have been the motives of determining, at that time, a court which was a rival of the English power ; the connection then formed from interested motives, sincerity and friendship have bound more closely in the new French government. They have already given you testimonies of that affinity which ought to unite two republican governments ; and whatever may be done, the value of the friendship of the French people will one day be experienced, and those who shall have the first right to it will doubtless be those who have aided them in adversity, and in the grand act of regeneration. In vain are all the efforts of the conspirators to injure within and without the foundation of their new government. France wishes to be free, and to be a republick ; she shall be so ; and those powers will themselves experience the ruin and dissensions which they prepared for France.

Americans of the north ! You are not to apply these reflections to yourselves. The policy of a people truly free, is not to be fascinated by combinations of cabinets ; it is ostensible and open ; it consists in the rights of nations united. Hitherto France has not waited the effect of your assistance as an inducement to treat you as brothers and friends. The address which she sent to you respires nothing but loyalty

and disinterestedness ; she offers every thing to your advantage, and has no reward in view. She presents to you a compact and commercial community. The decree which the convention has passed to enfranchise to you the rights of domaine and to assimilate you to the people of her own nation, is the pledge of her sincerity. The convention then indicated to you the interest which you have in her colonies. You therefore owe to justice, to allies, and to the title of associates, the guarantying of these precious possessions from the cupidity of our and your enemies.

Since the declaration of war, we have addressed to the minister of France with the United States the demand of divers succours necessary for us. The minister of marine had authorized them. However nothing has come to our hands. We now solicit succours of provision, ammunition, and even men. What ! when England, seeing for the first time the white flag waving among her vessels, came to take possession of the French colonies in the name of a king without dominions ; and North America, witness to that political perfidy, not able to lend a helping hand, against an unworthy treachery, in the name of a republic mistress of an immense territory and population ! We have not, therefore, in such an hypothesis, conceived that we derogated from the law of nations and our French fidelity by invoking succour in men. The faith of republicans to us is sufficient.

As to the succours of ammunition of every kind, there is a debt to be liquidated, and the minister of marine pointed it out in his letter of 2d February, addressed to St. Lucia. We have written in concert with general Collot to the French minister residing with you. We now take a more direct and free method by speaking immediately to Congress, in support of the requisition made to the minister, and of which he will notify the articles to you. We think that this proof of confidence and loyalty, the same in the Frenchmen of the metropolis as in the colonies, will operate efficaciously with the United States, and that if fraternal connections for ever attach our two nations to each other, so also will our commercial relations no longer manifest but the same spirit and the same interest between the republicans of North, and those of South America. We greet you citizen representatives.

The General and Extraordinary Commission of Guadeloupe.

LA CHARRIERE, President.

KAIO & POHL, Secretaries.

Basseterre, Nov. 6, 1793, 2d year of the French Republick.

## TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the Republic of France to the United States of America, to Mr. Randolph, Secretary of State. Philadelphia, the 15th day of Ventose of the 2d year of the Republic of France, one and indivisible. Feb. 4, 1794, (O. S.)*

SIR,—You will find under this envelope the copy which you desire of the letter the general and extraordinary commission of Guadaloupe proposed to me to have transmitted to the representatives of the American people.

I with pleasure complied with this method, because it seemed to me, that, in the present circumstances, every thing which might convince the United States of the unshaken attachment, and of the expectations discovered by all parts of the indivisible Republic of France, could not but be beneficial to the respective interests of our two nations. Besides, circumstances but too much justify the pressing demands which Guadaloupe has permitted itself to make through me to the legislative body. That colony has had information of the orders which have been given to me by the executive council relative to the supplies for the Antilles. I have informed them of the obstacles which prevented me from executing them; and, alarmed at the danger in which this disappointment placed a source of riches as precious to France as to the United States, they have conceived it a duty to present to you their situation in colours the most lively, the most patriotick, and the most proper to refute all the absurd falsehoods spread through your continent by malevolent men, who, not having had the wisdom to wait for the example of the great majority of the inhabitants of the windward islands, whom the torch of experience had enlightened with the philosophical spirit which presides over our revolution, have themselves aggravated their misfortunes by a criminal resistance to the laws, and precipitated themselves into a profound abyss, rather than make some trifling sacrifices to prejudice and pride. Accept my respect, GENET.

## TRANSLATION.

*The Minister Plenipotentiary of the Republic of France, to Mr. Randolph, Secretary of State of the United States. Philadelphia the 11th of the 5th month, Nivose 2d year of the French Republic, one and indivisible.*

SIR,—The general and extraordinary commission of Guadaloupe having requested me to transmit to the federal go-

vernment the enclosed despatch, of which they have sent me a copy, I hasten to communicate it to you.

I also enclose a copy of the despatch which this same colonial body wrote to me. You will see, sir, in both the expression of friendship and union of which I have always given you the truest assurances, in the name of the whole French nation; you will likewise see therein what is expected of the United States in that island.

I had determined since the meeting of the legislative body, to wait in silence the unravelling of all the questions which I have had occasion to discuss with your predecessor. However, I shall not let this moment escape without requesting you to lay before the President of the United States the present critical situation of the Windward islands, now the only resources of the commerce of our Republick, on the point of being attacked by England, and without warlike stores and provisions. Accident has put in their power some means of supplying immediately their most urgent wants; and had it not been for this, sir, our colonies would have been destitute of every thing. Those means are limited; and the embarrassments will return, if Congress do not decide definitively on the mode of reimbursement which I am instructed to propose to the United States. Accept my respect. GENET.

*The General and Extraordinary Commission of Guadaloupe to the Minister of the Republick to the United States.*

CITIZEN,—The colony of Guadaloupe, relieved for six months past from its tyrants, remains almost the only one in the midst of the Antilles which has been protected from the irreparable misfortunes of revolutions, and the open attack of enemies from without. You perceive how precious this fertile island ought to be to the metropolis, from its present happy situation. But the storm lowers upon it; and the glory of saving it seems to be reserved to you. From you, who are a friend of the revolution, and the minister of the Republick to a magnanimous people, whose liberty has been cemented by French blood, we may expect every thing, through your influence on the magistrates of the United States. Far be it from us to draw them beyond the line of their happiness. We would not purchase safety at the expense of the repose of our American brethren. We claim nothing but the rights which we believe we have upon their gratitude, and the succours which they can afford us, without injuring their own interests. May they, uniting in the wishes of our hearts, feel the strongest zeal to draw closer than ever

the bands which connect new England to France. As for ourselves we shall never cease to regard them, as the true allies of our nation; and they will always find the colonists of America to be their brothers, and ready to fly to their aid, if they should stand in need of us.—Health to you, citizen.

The General and Extraordinary Commission of Guadaloupe.

LA CHARRIERE, President.

KAIO, Secretary.

POHL, Secretary.

Basseterre, Nov. 6, 1793, in the second year of the French Republick.

A true Copy.

GENET.

*E. Randolph, Esq. to M. Genet. Philadelphia, Feb. 3, 1794.*

SIR,—It is unprecedented that the Executive of the United States should transmit to Congress a paper, the contents of which are not open to his perusal. The letter addressed to that body, and superscribed, as coming from the general and extraordinary commission of Guadaloupe, being sealed, I do myself the honour of requesting a copy of it; and in the mean time I shall direct the other papers to be translated.

I have the honour, &c.

EDM. RANDOLPH.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO GREAT BRITAIN AND SPAIN. FEB. 24, 1794.

THE extracts which I now lay before you from a letter of our minister at London, are supplementary to some of my past communications; and will appear to be of a confidential nature.

I also transmit to you copies of a letter from the Secretary of State to the minister plenipotentiary of his Britannick majesty, and of the answer thereto, upon the subject of the treaty between the United States and Great Britain, together with the copy of a letter from Messrs. Carmichael and Short, relative to our affairs with Spain, which letter is connected with a former confidential message.

GEO. WASHINGTON.

*Mr. Pinckney to the Secretary of State. London, November 25, 1793.*

DEAR SIR,—My last letters to you were of the 9th and 11th of the present month, since which I have received yours

of the 7th and 11th of September; the former having been forwarded to me only a week ago. The bill sent to me by the cashier of the bank drawn on Messrs. Bird, Savage and Bird for 1000*l.* is accepted; the other on Messrs. T. and F. Baring and Co. is noted for non-acceptance, of which circumstances I have apprized our bankers at Amsterdam.

You will have received long before this reaches you my account of the issuing of the additional instructions; of the representations both verbal and in writing I made on the subject, with the reasons urged by this administration in defence of that measure; and now that by your letter of the 7th of September I am particularly instructed on that point, I shall reiterate a formal representation in writing; but having reason to be tolerably certain what the purport of the answer will be, I will not defer, on that account, giving you the substance of a conference I lately had with lord Grenville. Having received authentick intelligence that the truce between the Algerines and Portuguese (of which I forwarded to you the first information I had received) had been negotiated by the British consul at Algiers without the knowledge of the court of Portugal, and learning at the same time that the negotiation for peace with the north-western Indians had failed, I thought it my duty to obtain explanations on these subjects.\* I therefore turned the conversation to them, on lord Grenville's expressing his satisfaction at hearing that the epidemical disorder in Philadelphia had nearly ceased, by expressing my gratitude for the interest he took in our welfare, and for his general professions of friendship to our country, and assured him of our earnest desire that this friendship should be continued and augmented, as mutually beneficial. But I observed it was unfortunate that the circumstances which occasioned any material diminution of the prosperity of the United States apparently originated from the measures of this country; that I had a well grounded hope that it was not the intention of administration to do us injury; that I was certain it was not their interest so to do; but that people who felt grievances, who imagined they knew the parties from whom those grievances originated, and that those parties had it in their power to remove them, could scarcely view, with that eye of cordiality, we mutually wished to promote, those who were the willing causes of their misfortunes: That the circumstances which were now particularly calamitous to the United States were, first, the Indian war, which I attributed to the detention of the posts; the second was, the letting loose the Algerines upon us, which I attributed to their consul, Mr. Logie; the third was, the in-

\* [See Explication, p. 306.]

Interruption to our commerce and neutral rights, which I placed to the account of the measures of this country. I enlarged severally on these subjects with such arguments as suggested themselves to me, and concluded by expressing a reliance that this administration would not hesitate to relieve us from the inconveniences we felt in consequence of their measures. On the subject of the detention of our vessels with provisions bound to France, I mentioned, that as I was particularly instructed I should offer a written representation; to which lord Grenville said he would give an answer in writing. His lordship, in answer to what I had advanced, stated that with respect to the truce between the Portuguese and Algerines, this country had not the least intention or a thought of injuring us thereby; that they had been applied to by their friend and ally the court of Portugal to procure a peace for them with the Algerines, and that Mr. Logie had been instructed to use his endeavours to effect this purpose; that he, finding the arrangements for a peace could not immediately take place, had concluded the truce; that in this they conceived they had done no more than their friendship for a good ally required of them; but that the measure was also particularly advantageous to themselves, as they wanted the co-operation of the Portuguese fleet to act against their common enemy, which it was at liberty to do when no longer employed in blocking up the Algerine fleet. As I had stated that the court of Portugal had promised a convoy to the American vessels then in their harbours, he assured me that they would give no opposition to that measure. With respect to the posts, he observed, that the negotiation concerning them was proceeding in another place, in which we were both of opinion for obvious reasons that it was convenient to continue it; that this negotiation was not terminated; and he assured me that he continued to receive pressing applications from the commercial subjects of his majesty on account of the non-execution of the treaty on our part. He farther said, that if the measure of relinquishing the posts were to take place, their settlements would be exposed to the ravages, and themselves to the expense and disadvantages which I had described to be at present the case with us; for these reasons he thought administration would not be justified in relinquishing the posts at this time; and expressed his regret that Mr. Hammond had not been permitted by us to enter into a negotiation for some arrangements relating particularly to the posts, and (as I apprehended him) Indian affairs, which, he had no doubt, would have terminated in our common advantage and mutual satis-

faction; but that when Mr. Hammond wished to open that business he was given to understand (though in the most civil terms) that the less that was said on that subject the better.†

The newspapers will convey to you all the publick intelligence. The affairs of France appear to me to be conducted with great energy; but of that you will undoubtedly receive more accurate information than I can offer. The little republick of Genoa appears to have displayed more of the dignity of an independent state, and greater respect for her own and the neutral rights, than might have been expected from her position. I remain, &c. THOMAS PINCKNEY.

Mr. La Colombe, a friend and aid de camp of M. La Fayette, who served in America, and has considerable arrears of interest due to him, applied to me three months ago to procure his interest from Paris. I wrote to Mr. Morris, but have not received a line from him during that period; in the mean time Mr. La Colombe fell sick and was in great distress: I therefore have drawn upon our bankers for 100*l.* for him, from the contingent fund, to be replaced from Mr. L.'s demand upon the publick. I shall be obliged to you for your direction, in similar circumstances, should they occur.‡

*Explication of the Cyphers in Mr. Pinckney's Letter of November 25, 1793.*

\* That the real attention of this court towards us might be ascertained.

† He was then proceeding to another point, but being unwilling that the extraordinary hint contained in what he had just said should remain merely as a hint, I begged to detain him a little longer on that subject, and asked him explicitly whether, in case we should comply with what they conceived to be the full execution of the treaty on our part, they would relinquish the posts to us? He answered, that in case one party to a treaty had deferred the accomplishment of their part of the obligation for nine years, whereby the complete execution could not afterwards be had, neither reason nor the law of nations would exact a strict compliance from the other party.

You will see by their last treaties that they cannot now retract their instructions concerning the detaining of corn; neither do they appear to have the inclination. On the contrary, I am informed they meditate fresh embarrassments to our trade.

‡ He produced to me a letter from La Fayette desiring me to furnish him with money from the thousand pounds sent for him by the President.

*Mr. E. Randolph to British Plenipotentiary. Philadelphia, February 21, 1794.*

SIR,—From a review of your letter to my predecessor on the 22d day of November, 1793, it appears that you had not then received such definitive instructions relative to his communication of the 29th of May, 1792, as would enable you *immediately* to renew the discussions upon the subject of it.

Suspended as this negotiation has been for so long a time, I have it in charge from the President of the United States to repeat the inquiry, Whether any instructions have been yet received by you, for pursuing those discussions? Permit me to hope for the honour of a reply at as early a moment as may be convenient. I have the honour, &c. &c.

EDM: RANDOLPH.

P. S. I thank you for the communication of his Britannick majesty's declaration which I have just received.

*Mr. Hammond to the Secretary of State. Philadelphia, Feb. 21, 1794.*

SIR,—In answer to the inquiry contained in the letter of this date, I have the honour of informing you, that I have not yet received the definite instructions that, as I have before assured you, I expect to obtain, on the subject of the discussions to which you allude. I have the honour to be, &c.

GEO. HAMMOND.

*Messrs. Carmichael and Short to the Secretary of State. St. Lorenzo, October 22, 1793.*

SIR,—Immediately on receiving your letters by Mr. Blake, we did ourselves the honour of informing you of it by post on the 29th ult. and sent four copies of our letter via Cadiz and Lisbon. The Algerine cruisers having since passed the straits, the American vessels in those ports, by which the several copies of that letter would have been forwarded, will probably not put to sea. This suggests to us the idea of writing at present by the packet to Falmouth, to repeat to you the information of Mr. Blake's arrival here, although

it is not in our power to add any of importance as to the subject of the letters received by him.

It was our intention that he should have left this place for Cadiz about this time, even if we received no written answer to our written communications on that subject made by our letter to M. de Gardoqui the 1st of this month. We were, according to custom, constantly assured that we should have it daily; but we did not think it would be proper, after your letter of the 12th of July, to keep him longer, as we knew from the invariable form and constant usage in doing business here that it might be trained beyond all kind of calculation. Our determination in this respect has been changed by the Algerine cruisers. He would not consent, and indeed we could not expect it of him, to embark on board of an American vessel sailing from Cadiz or Lisbon, even if any should sail, whilst the Algerines are on that coast. We know of no other there destined for the United States, and therefore think it would be improper he should proceed to either of those ports on that contingency. We have written to Cadiz, Lisbon, and Bilboa, to obtain information on that subject; and shall decide according to what we may learn from thence. This will unavoidably delay his departure. We think it indispensable that you should be informed thereof, and shall therefore send different copies of this letter.

\* [The mode of conveying this letter prevents our going into detail even by cypher. We think it however proper to mention to you that on our communicating to Gardoqui the subject of your despatches, he gave us the strongest verbal assurance that it was not the intention of Spain to interfere, if war should take place between the United States and the Indians. He promised an immediate answer to that effect, to our letter of the first of this month to him. After delaying this in his way from day to day under the various pretexts of our letter being to be translated to present to the king, &c. he informed us, on the 19th instant, that at the moment he should have answered it the duke de la Alcudia had determined that it belonged to his <sup>† 156</sup><sub>ad menu</sub>, and had therefore, taken into his hands our letter, and the other papers, in order to give the answer, for which we were to <sup>† 156</sup><sub>ap seventy</sub> to him. This we accordingly did by our letter of the 20th instant; and are now expecting the answer. From expe-

\* Note. The part comprised within crotchets was written in cypher.

† 157 is *ply* the syllable probably meant.

rience we do not think the verbal assurances Gardoqui sufficient to affirm to you what a written answer will be ; it will be the same, however, from the duke, that it would have been from him. In the conversations which Mr. Carmichael has had with him he has always found his sentiments consonant to the professions made by Gardoqui.]

We shall do ourselves the honour of writing to you again without delay, and in the mean time beg you, &c.

WM. CARMICHAEL,  
W. SHORT.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS,  
RELATIVE TO SPAIN AND ALGIERS. MARCH 3, 1794.

I TRANSMIT to you an extract from a letter of Mr. Short, relative to our affairs with Spain ; and copies of two letters from our minister at Lisbon, with their enclosures, containing intelligence from Algiers. The whole of these communications are made in confidence, except the passage in Mr. Short's letter, which respects the Spanish convoy.

GEORGE WASHINGTON.

*Extract of a Letter from Wm. Short to the Secretary of State.  
St. Lorenzo, November 6, 1793.*

ON our learning that the Portuguese government had granted the first convoy for American vessels, and mentioning this circumstance to M. de Gardoqui, he advised the making a request to this effect here ; and this with a kind of assurance of success, so different from his usual manner, as showed he was confident thereof. Mr. Carmichael accordingly did it ; and he informed me yesterday that he had received an immediate answer from the duke de la Alcudia notifying him of government having already come to that resolution. This will add also to the security and certainty of Mr. Blake's embarkation, and enable us to determine his departure with less regard to the port, although as yet we do not know what time is fixed for the Spanish convoy. We shall regret less the delay he has met with here if it should enable us to send by him the answer expected.

Mr. Carmichael informs me that in his audiences of the duke (since he has taken into his hands this subject which had been communicated by us very fully in our letter of Oc-

tober 1st to M. de Gardoqui) he has regularly pressed him for the answer, and as regularly been promised that it should be given with the least possible delay. He mentioned that a recurrence to papers was necessary, which, added to the present crowd of business, had rendered some delay unavoidable.

This shows that he had not judged proper to reduce the answer to its simplest terms, which might have been that they would or would not interfere between the United States and their Indian neighbours. The mind of government must be fully made up on that subject, except as far as depends on future circumstances; and if their answer is to be delayed for them, it would certainly not be proper for us to detain Mr. Blake on that account.

I have already had the honour of writing you an account of the ordinance with respect to the commerce of New Orleans. M. de Gardoqui has for a long time past had the intention of introducing several changes there. He has lately informed us Mr. Rendon (formerly charge des affaires of Spain at Philadelphia) was appointed intendant of that place, with very extensive powers, and independent of the Baron de Carondelet. He desired us to announce this in America; and conceives it will give much satisfaction there as an indication of the sentiments of this court towards the United States. His conversation thereon would give an inference that he now contemplated a communication with New Orleans by our citizens, which the ordinance above mentioned and his former conversations did not admit of. So far as the injuries the United States have hitherto received have proceeded from the conduct of the Spanish agents, or are to depend in future on the manner of executing the orders sent from hence, I conceive from M. Rendon's character and knowledge of the United States, that his appointment is a favourable circumstance to the harmony of the two countries.

*D. Humphreys Esq. to the Secretary of State. Alicant, Nov. 19, 1793.*

SIR,—I had the honour to write to you on the 16th; and in a postscript to my letter of that date, to Mr. Church, requested him to inform you, that the largest of the Algerine frigates was then coming into this harbour. It proved not to be the largest, but one of the others, which had returned some days since from a cruise in the Atlantick. The captain reported to Mr. Montgomery (who at my re-

quest went along side of the frigate) that he had taken seven American vessels, and carried three of them with him into Algiers. The only names of the captains which he recollected were, captain Newman, from Cadiz to Amsterdam, with sugar, captain Moss, from Cadiz to Hamburgh, with hides, &c. and captain Jackson, from Malaga to America, with wine and raisins. In the midst of these distressing events I think it a duty incumbent on me to be as particular as I am able in my correspondence.

On the 15th inst. the brig Marian, captain Rosseter, from New York, arrived at Carthagen. He saw no cruisers until he was entering the bay, when he had a very extraordinary escape; as there was a xebeck in the harbour at the time.

I have as yet heard nothing in answer to the memorial and letter mentioned in my former despatches. With sentiments of perfect esteem, &c.

D. HUMPHREYS.

P. S. The Algerine frigate sailed yesterday on another cruise.

P. S. I open this letter to let you know the dey has refused giving a passport. I will write the particulars by the next post, as I shall lose the opportunity, if I do not close this instantly.

There are 12 masters, 16 mates, and 87 mariners prisoners at Algiers.

*D. Humphreys, Esq. to the Secretary of State. Alicant, Nov. 23, 1793.*

SIR,—In a second postscript to my letter of the 19th I informed you of the refusal of the dey to grant a passport. I have now the honour to enclose to you copies of letters from the Swedish consul at Algiers, from his brother Pierre Eric Skjoldebrand, Esq. and from captain O'Brien. By the tenour of these you will clearly comprehend the actual disposition of the dey, and the real state of affairs in that regency.

From these communications it will also be but too evident, that no choice is left for the United States but to prepare a naval force with all possible expedition for the protection of their trade; and that there is but too much reason to fear, the corsairs, under a perfect sense of security from danger, elated with impunity and success, will infest the channel of England, and even the coasts of America, in another season, unless the most vigorous and decisive measures be instantly adopted on our part.

I shall advise with Mr. Carmichael and Mr. Short on any ulterior plans to which recourse may be had in this critical state of affairs on this side of the Atlantick.

It has been thought best to let the property of the United States remain on board the vessel in this harbour under the care of Mr. Montgomery, until Mr. Carmichael and Mr. Short can be consulted to know whether it can be landed by an order from court without duty, or in what manner it will be advisable to dispose of it.

I have made such effectual arrangements for supplying the immediate wants of our distressed citizens in captivity, who have been stripped of every thing but life, as the nature of the case seemed to dictate.

The copies of my letters to several persons in Algiers cannot be prepared to be transmitted to you by this conveyance, but I propose to have them enclosed in my next despatches.

As there remains nothing farther to be done here at present; as there has been an Algerine frigate cruising off this harbour for several days past in such a manner as to excite suspicions of her object; as it was judged by Mr. Montgomery and Mr. Cutting altogether unsafe for my person to be intercepted by an Algerine cruiser, even on board a neutral vessel; and as there were several subjects of great importance to the publick on which I wished very much to confer with Mr. Carmichael and Mr. Short, I could not hesitate to take measures for proceeding directly to Madrid. It will not, however, be practicable to obtain the means of conveyance before the middle or perhaps before the end of next week.

But I hope, sir, you will pardon me if you should not receive letters dated between this time and that of my arrival at Madrid. With sentiments of perfect respect, &c.

D. HUMPHREYS.

P. S. In confirmation of the opinion of Mr. Montgomery and Mr. Cutting, respecting the invalidity of the protection afforded by a neutral vessel, I forgot to cite an expression of the dey, as related in a letter to Mr. Montgomery—"Let the American ambassador take care how he comes here, under the protection of any flag whatever."

In order to make you acquainted with the extent and particulars of our vessels captured, so far as I have been able to learn, I enclose to you the copy of a letter from captain McShane.

## TRANSLATION.

*Swedish Consul to D. Humphreys, Esq. Algiers Nov. 13, 1793.*

SIR,—I have had the honour of receiving your obliging letter of the 5th of this month, and am extremely flattered with the confidence and favourable opinion you have been pleased to entertain of me; I am nevertheless in the disagreeable situation of not being able to follow the inclination and sincere desire I have of meriting your noble and open confidence, worthy of a citizen of a free and respectable nation.

There are in Algiers so many jealous observers at this critical epoch, when the dey is about concluding two treaties of peace, and when every one of his ancient friends fears being sacrificed to those treaties of peace with a nation whose only policy is that of want of faith in them, as the soldiers, being unoccupied and without the prospect of prizes and plunder, will soon make some revolution which may cost the dey his life. Therefore, the least step I might make here in favour of the Americans (that is to say in political affairs, because to assist poor slaves, of whatever nation they may be, is an act of humanity for which a consul cannot be reproached with propriety) would not fail being instantly reported to several courts of Europe, who would complain to the court of Sweden, which would place me in a very unpleasant situation, for having acted against that foolish and imagined commercial interest of nations, and without the order or permission of my court. For the same reasons, sir, I have not ventured even to deliver your letter of credence and memorial to the dey; but at the same time being cordially attached to your nation, sir, desiring ardently to be able to contribute to the deliverance of your poor and unhappy countrymen from slavery (now amounting to 115) and endeavouring to merit as far as in my power the good opinion with which you honour me, I engaged my brother, who, not being here in any official capacity, having no appointment from our court, has followed me to Barbary from fraternal friendship, to remain here as long as he pleases, who, knowing the political affairs and channels of negotiation here, as well as myself, and having hitherto received several particular marks of favour and distinction from the dey, to undertake all that you have been pleased to confide; and I can assure you, sir, that every thing that is possible to be done for you and your nation he will do, and that he, as well as myself, will be happy in finding opportunities of being useful to a nation whom we both

respect and love. But, sir, I am sorry that you are come at a moment, than which none could be more disadvantageous. Of this I leave my brother to inform you in the letter which he will have the honour to write to you.

It remains for me only to testify to you, sir, the lively desire I possess to have the honour of your personal acquaintance, having through your countrymen here long known and respected your talents.

I hope for the most favourable circumstances, and in the mean while, request you to be assured of the most sincere sentiments of respect, &c.

M. SKJOLDEBRAND,  
Consul General of Sweden.

#### TRANSLATION.

*Brother of the Swedish Consul to D. Humphreys, Esq. Algiers, Nov. 13, 1793.*

SIR,—In consequence of what my brother, the Swedish consul, has had the honour of writing to you, I take the liberty of presenting myself to you, sir, as a free man, and ready to sacrifice myself in every instance in which I conceive myself able to assist suffering humanity.

I have several times with tears in my eyes, seen your honest countrymen here sinking under the cruel yoke of slavery. I have sighed on hearing them complain, and suppose themselves forgotten by their country, for the liberty of which they had fought against a strong and imperious nation. I have myself, as well as my brother, done every thing in my power to alleviate their misfortunes; and leave to themselves the certifying of it to you.

At present, sir, you are come to deliver those unfortunate men; but you will find the circumstances very different from those which you and your nation have expected, and very different from what they were even two months ago. What captain O'Brien, (if you have seen his correspondence with Mr. Carmichael and Mr. Montgomery) some time ago presaged, is come to pass; and I am now going to explain myself with all the freedom and sincerity of an honest man, cordially attached to you, sir, whose talents I respect from the noble and worthy sentiments which appear in every line of your letters, and to your honest and suffering countrymen.

On the arrival of your despatches, the day before yesterday, and after having consulted with my brother, as he has had the honour to inform you, I immediately obtained an audience of the dey; and on presenting to him your letter of credence, and your memorial, I did not neglect interpreting

to him their contents with every persuasive consideration and reason, adding thereto all that I thought capable of leading him to favour your demands and propositions. He replied to me with an unshaken firmness, that he would not make peace with the Americans, or any other nation whomsoever, at any price whatever; that there had been a time when he was well disposed to support the engagements at half price, made by his predecessor, the dey mahamet Bascha, with Mr. Lamb, an American negotiator, which you are probably acquainted with. But now, since the conditions of a peace with Holland require only to be ratified; since the Portuguese have demanded a peace, and the dey has fixed his pretensions with the Portuguese commandant, who was here some days ago (which amount to near 3,000,000 piasters) which the dey expects here in a few days; since the Algerine corsairs have made ten American prizes, and 105 slaves more, and the dey has again sent his corsairs out of the straits, expecting still to add to the number; he declared to me that his interest does not permit him to accept your offers, sir, even were you to lavish millions upon him—"Because," said he "if I were to make peace with every body, what should I do with my corsairs? What should I do with my soldiers? They would take off my head for the want of other prizes, not being able to live upon their miserable allowance."

In vain did I represent to him that the peace of Portugal was not yet concluded; that they would not perhaps accept his demands; that, besides the Portuguese nation had at all times endeavoured to injure the Algerines, making prizes and enslaving their subjects; that on the contrary, the United States, who in a war, as bloody as it was glorious with England, have sufficiently shown that they neither want strength nor bravery, have never as yet armed a vessel against the corsairs of the dey; that their peace, having been a long time proposed, would now have been some time concluded if two negotiators sent in succession had not been arrested by death; and that if the dey feared peace, he had only to break with some nation of those who are probably less useful to him than the United States might become, considering the wood for ship building, and many other productions of America, necessary for marine.

All my remonstrances were ineffectual, even as to your so reasonable demand of a passport to come here. The dey said "that he would not allow any American ambassador, under any flag whatever."

Now, sir, I have had the honour of communicating to you

the disadvantageous dispositions of the dey. It remains for me to give you my opinion on the subject. Were I less acquainted with this country and the dey, his inconstancy and liability to change, I should advise you to return to your country for the purpose of preparing to seek by an armed force what you have not been able to obtain by amicable means; but at present, sir, I take the liberty of advising you to have a little patience; to remain at Alicant or Lisbon quietly one or two months, during which time it will be decided whether you can obtain a peace here or not. I have very strong reasons to believe that the court of Portugal will not accept the immense demands, which will enrage the dey, make him ashamed, and the sworn enemy of Portugal for ever. This, sir, would be the favourable moment for skilfully renewing your propositions. There is also a consul of another nation (pardon me for not being able yet to say which) who will infallibly have war in a short time. This is an additional reason.

As to the decisive and entire refusal of the dey even to receive you, I can communicate to you, sir, in confidence (discovering to you with what freedom I speak and the reliance I have in your discretion) that the same refusal was given to my brother and myself, when we came last year to negotiate peace, on our writing from Leghorn demanding permission to come here. And I advise you to do what we did then. We had had formerly, for courtiers of the Swedish nation here, a Jewish house (by which people all secret negotiations are carried on at Algiers.) This house was not on terms with the courtier of the dey. Another Jew, who calls himself Bacri, a house which founded and supported the peace of Spain, (who since applauded all the difficulties opposed to our arrival) who has actually agreed upon and fixed with the dey the conditions of the peace with Holland, and who enjoys an uncommon degree of grace with the dey; this house, being at variance with our ancient courtier, secretly indisposed the dey towards us and our peace, until we were obliged to make an offer to this same Bacri, that by procuring us the liberty of coming here, and opening negotiations for peace, their house should afterwards be accepted as courtiers for Sweden. We arrived here, on obtaining the permission on these conditions, and I venture to say that no nation will again make peace in Algiers on such moderate terms.

You are at this moment, sir, in a similar situation. Mr. Bassara (who also according to what your countrymen have told me, has neglected them for some time) has not (al-

though king of the Jews) either the grace or influence of those *Bacris* with the dey ; and it is very true that you cannot make use of the latter, without making sworn enemies of the former, who will oppose your peace. But it is also true, that the jealousy and enmity of these *Bacris* against Bassara will be more dangerous ; therefore, sir, if you are pleased to confide in what I have the honour of advising, you will no longer address yourself to Messrs. Bassara and Co. And to convince you that they have not much influence, I shall inform you, that on this occasion also (being afraid of failing in the business, when they thought it so near a conclusion) they have laboured and supplicated the dey on the subject of your propositions, but have received in like manner a decisive and less temperate refusal than myself.

Now, sir, having openly and freely spoken my thoughts on this subject, I come to another not less delicate. I have a confidence in demanding of you for your utility, to inform me with freedom and sincerity, the extent of your power.

1. What is the highest sum you can give for peace ?

2. To what amount can you promise to bring, annually, presents of war, stores, and ship timber ? because this is the practice with the Swedes, Danes and Hollanders, which costs them each year near 30,000 piasters.

3. Whether you can liberate the slaves to the number of 12 captains, 16 *pilotes*, [mates] and 87 mariners, at a price of near 2,000 piasters each ?

4. Whether you can promise that every two years the consul who may reside here shall pay in like manner as those of the three abovementioned nations and of Venice, a present of jewelry, watches, muskets, pistols, golden brocades, linen, &c. &c. to the value of about 9,000 piasters ?

It is for you, sir, to determine whether what I demand of you, be more than you can communicate to me. It is for me to know that it should remain a secret between us, and to make you that promise ; and to tell you to what purpose you will make the communication. The affairs of Algiers with the dey, who is inconstant and always changing, are conducted in such a manner that at favourable moments, such as I have suggested to you, one might in five minutes propose and decide upon business of the greatest consequence ; but again after those five minutes, or after a day, the dey would infallibly change his opinion and pretensions ; and if he should tell me to write to any person, and declare to him upon what conditions he would give peace, I would not venture to do it, without having the conditions upon paper, and, in presence of the divan, subscribed by his sec-

retary of state. For otherwise, it might happen that he would demand twice as much on the arrival of the negotiator. So that desiring only to be useful to you, sir, I propose to you the most certain and I venture to say the only means. You are still, sir, capable of doing as you please, and as far as your instructions extend. At all events I request you, sir, as soon as possible to give me whatever answer you may be pleased to honour me with.

Should there be any thing to be done in the mean time (supposing the above case of the Portuguese, who must in a very short time give their answer) or the peace with Portugal take place, and insurmountable obstacles to your peace for some considerable time be discovered, I conceive in either case I should not err by freighting a vessel and sending you information thereof to Alicant, or to Lisbon, or any place you may be pleased, sir, to point out; but I shall remain inactive (without however losing the object in view) till I receive your answer.

Another expense which I think I might go into without your permission (under the hope of obtaining your approbation hereafter) and which is very pressing, is an advance of a little money to your naked and unfortunate countrymen in slavery, in order to prevent their dying from want and the severity of the season.

I have now had the honour of mentioning to you, sir, every thing which occurs to me on this occasion.

Believe me, sir, to be a man of honour. All assurances of discretion and disinterestedness are therefore superfluous; and if I am not, assurances avail nothing. From these considerations I shall say no more; but should you be pleased to honour me with your confidence, I request you, sir, to be so good as to remember to give me also a power to make use of it.

Not having a sufficient knowledge of your language, sir, to venture to make use of it (in affairs requiring to be clearly explained) I request you to excuse my writing to you in French. You may always, when you honour me with any letter, continue to write in English, if you think proper. Penetrated with sentiments of respect, attachment and zeal, I have the honour, &c.

PIERRE ERIC SKJOLDEBRAND,  
Brother of the Swedish Consul in Algiers.

P. S. Bacri has this moment informed me that he had already succeeded in disposing the dey to your favour; but it will be necessary, sir, for you to follow the counsel which I

have had the honour of giving you in this letter, never to write to Mr. Bassara; and to give me a speedy answer.

*Captain O'Brien to D. Humphreys, Esq. Algiers, November 12, 1793.*

HONOURED SIR,—The Swede consul, Mathias Skjoldebrand, Esq. favoured me with the perusal of your letter dated Alicant, the 5th instant. I must observe that in all you wrote I much approve of your sentiment, as becoming the representative of a great people. You can easily imagine what was my feelings on this occasion.

Mr. Montgomery wrote to Bassara and ———; and they, without waiting to embrace a favourable opportunity, immediately made application to the dey relative to your coming to Algiers to make a peace. The dey answered very abruptly that he would not receive you, and would not make the peace with America, as he had the Portuguese peace to settle, and also the Dutch; and that he had taken ten sail of American vessels, and was likely to take more; and that when he wanted the Americans for nearly two years to make the peace they would not give him an answer, which was treating him and his people with indifference.

The Jews were jealous of your writing to the Swede consul; and depend they will not try to befriend the United States. Indeed they have no influence with the dey and ministry.

The Swede consul depend would do all possibly in his power to serve the Americans; but, sir, you will consider that for him to interfere publicly in the American business that he should first have the orders of his court; but you may depend on his interest in all that can be done with propriety. Therefore his brother, a gentleman of the first rate abilities, and a strong friend for the United States, has become a strong and faithful advocate in the favour of the United States; and went to the dey with the President's letter, and made use of every winning, &c. requisite argument, for the dey to consider favourable of a peace with the United States, and permit the American ambassador to come to Algiers; but the dey has not seemed inclinable, but gave Mr. Skjoldebrand, jun. nearly the same answer as he gave Bassara. I believe the dey was prepossessed against the Americans by the British consul, who had information of your destination by the captain of the Portuguese frigate, and by Mr. Walpole, British resident at Lisbon, as the British brought about the Portuguese truce, and will try for the

peace, all in order to hurt the Americans ; but, sir, you well know all the enmity of the British cabinet against the United States.

Bassara and —— would not credit the suffering American captives with a trifling sum to relieve their necessities ; therefore those people that would not put confidence in the United States, should have no confidence put in them. And as all they have done hitherto relative to ascertaining the terms of our peace has become void by the Portuguese truce and their prospects for peace, I think, sir, it is requisite that the United States should try other channels to lay the foundation of the American peace ; and depend, sir, your endeavours will be crowned with success.

As you are fully empowered, and you see the great necessity of something decisive being done, I therefore, with the greatest respect and with the real dictates of my thoughts, propose to you, sir, to immediately empower Mr. Skjoldebrand, jun. to adopt such plans as will be most effectual, and be most conducive in bringing about the peace. Therefore, when you explain how much money the United States will pay for the peace, what is their presents in making the peace, whether in maritime stores, in money, in cruisers framed and sent in cargoes, or in money, and by all means what the United States will pay annually, and in what articles or money, &c. After all this explained, and you empowering Mr. Skjoldebrand on this important subject, then, sir, he will apply to Mackoiah Bensahud, one of the principal men of the house of Joseph Cowen Bockerries, the great Jew merchants of Algiers, and head banquiers, that has the greatest influence with the dey, and that hardly any negotiations can be well brought about but with their influence and assent.

The Jews in Algiers are in two parties, and as we are unfortunately circumstanced we must apply to the people of influence that can befriend us. This house of Cowen Bockerries laid the foundation of the Swede peace, and by their influence settled that peace on a solid basis, which is worthy of attention. And the dey being of a wavering unsettled disposition, those people I have mentioned being empowered, they would, when opportunity offers, embrace and secure it effectually. Then, sir, let the American ambassador come and put a finishing hand to the whole affair. This dey—he studies his own interest ; that of the regency is his second consideration. Indeed it would not be prudent for you to come to Algiers until the foundation was laid, and the terms known ; for you must consider that the Portuguese, the Dutch, and

Americans, all three trying at one time for the peace, that it will occasion a great clashing of interests in all concerned and empowered.

The Portuguese frigate arrived here the 2d inst. and sailed the 7th instant with the dey's terms for the peace, which I understand is as viz: one million two hundred thousand dollars of Mexico for the peace. Eight hundred thousand dollars for the dey and ministry, presents on making the peace, and ambassadorial and consulary presents. On the 8th inst. the dey called on the British consul, who is charged relative to the Portuguese peace, and desired him to write to Portugal, that he must have three hundred thousand dollars for his family, independent of the above mentioned sums.

The Spaniards are very jealous relative to the Portuguese obtaining a peace with Algiers, and they are using their greatest influence to prevent its taking place. Indeed the majority of the Algerine politicians are of opinion that it will not take place, as they consider that by the bigotry (but not good policy) of Portugal, that she will not agree to pay such exorbitant sums. However the Portuguese frigate is expected to return to Algiers in 20 or 30 days from this date, and will bring the definitive answer which will determine peace or war between the Portuguese and Algerines.

The commandant of the Portuguese frigate told the dey that if the terms were not agreed on by the 1st of January ensuing that the truce was void. Therefore, sir, if we wait the issue of the Portuguese affairs, and that Portugal will not make the peace on the above mentioned terms, you may depend that the United States will then obtain their peace on favourable terms. The Dutch I believe will have more difficulty in settling their affairs than is generally considered; for I believe they have only a cessation of hostilities, but no terms agreed on. The Dutch commandant or ambassador is expected here in a few days. The house of Joseph Cowen Bockerie obtained and settled the Dutch truce with this regency. Monsieur Faure is also a little interested on Dutch affairs.

It is generally considered that the Danes will shortly lose their peace. The dey has given the Dane consul some broad hints on this subject; and the Dane has lately paid two thousand dollars to send one letter safe to Livorn. This day it is reported that the three Algerine corsairs, which are at sea on their second American expedition, that they have orders to take the Dane vessels, as the dey charged the Dane consul in the Hamburgers, Lubeckers and Breminers being supplied with Dane passports.

The dey said this day that those he wanted to be at peace with he was necessitated to be at war with; and those that he did not want to be at peace with he made a peace with: that is, I am at war with friends and at peace with my enemies. Indeed, sir, the situation of the United States is different from that of other nations that is at peace with the Turks, Tripoli and Tunis; but by being at peace with Algiers, and by something extra to the dey, it would be the means of our obtaining a peace very favourable with Tunis, as Tunis is a tributary state to Algiers and is much biased by its influence. You well know that to this date the peace with Algiers has cost Spain in money and presents full five millions of dollars. And Spain changed her national flag and keeps her peace on very humiliating terms. The Swedes paid full three hundred thousand dollars for their peace, besides a cargo of maritime and military stores to the amount of fourteen thousand sequins, which, with presents, amount to annually thirty-four thousand Mexico dollars. The Danes pay full the same. The Venetians twelve thousand Venetian sequins, but full ten thousand more in presents. In fact, since the Spanish peace those nations pay full in presents one third more than they used to pay.

The dey cares little about the different nations ransoming slaves, for he could not well fit out his cruisers independent of slaves. What a foolish idea the United States have that the ransom of a few men concerned the peace. We have suffered on this and many other accounts by our country. God forgive our persecutors.

I had wrote you that the Swede consul on the arrival of these 105 captives advanced them 200 Mexico dollars. Indeed they are in a very distressed and naked situation. I need not say more on this subject.

You stay in Alicant; give out you are going to depart for America; act as becomes a distinguished citizen, and as the representative of a great and rising empire; and take the advice of your most obedient servant, O'BRIEN.

*Algerine Maritime Force the 12th Nov. 1793, as viz:*

One frigate of 44 guns, built in Algiers by Spanish king's constructor.

One ditto of 32 guns, English built.

One ditto of 24 guns, French built.

One ditto of 24 guns, Levant built, at sea.

One polacre of 18 guns, Genoa built, at sea.

One brig of 20 guns, built by Spanish constructor, at sea.

One xebec of 20 guns, built by Spanish constructor.

One ditto of 12 guns, built on the coast.

One ditto of 14 guns, built on the coast.

One ditto of 12 guns, built in Spain.

One brig on the stocks, pierced for 20 guns, will be launched and ready for sea in thirty days. N. B. They carry, each corsair, at the rate of 12 men to each gun fully.

60 gun-boats.

Oran has 3 galliotas, carrying 4 guns each.

Tunis, I am credibly informed, has 23 corsairs mounting from 24 to 4 guns.

The corsairs of Algiers and Tunis combined may make a formidable fleet of sea robbers; and as the Algerines have become masters of the western ocean, the Tunisians will do the same; and if they meet no success they will go into the English channel, and on to the coasts of the United States. Then, honoured sir, what will be the alarm. I am afraid they will in this their second expedition take 8 or 10 sail more of American vessels. The enemies of the United States tell the dey much is to be got by being at war. Indeed a full demonstration is taking 10 sail in one little cruise.

I would advise you, sir, by all possible means in your power to try for the peace. The same time immediately write Congress to send 4 complete frigates and 2 brigs to Gibraltar, and stop the depredations of those sea robbers. These 6 sail, well appointed and manned, will keep the Algerines in greater awe than the whole marine of Portugal did. These 6 will give security to our commerce to Europe. They will act of course on the defensive. But in order to convince those people of the activity of American corsairs, and to make them sensible of the force and justice of the United States, we should have full 16 sail of frigates, 4 brigs, and 2 schooners to carry on, for one or two years, an offensive war; and if they were well conducted we may destroy all the corsairs of Algiers. This is saying more than the Spaniards or Portuguese ever did; but be assured I know it could be done easily by Americans. Try and hunt for captains Barney and Murray, and take care that our ships are commanded by experienced and brave Americans that will lead their countrymen on to victory and glory. Show those people the English, Spaniards, and Portuguese, that we are not a dastardly effeminate race but are necessitated to arm to maintain the honour and dignity of the United States.

A camp on the frontiers towards Canada; another towards the Mississippi; and Spain prays the United States will let them make their peace with all the Barbary states.

I refer you for every thing interesting to the letter of Mr. Skjoldebrand, jun. Depend you may confide in him; and be assured, honoured sir, of truth from your unfortunate fellow citizen.

O'BRIEN.

Hon. David Humphreys, Alicant.

Please to favour Mr. Montgomery in the perusal of these particulars.

*J. McShane to Colonel Humphreys. Algiers, Nov. 13, 1793.*

I HAVE taken the liberty to inform you that I was captured on the 18th of October. by a sheerback of 20 guns, in sight of the Rock of Gibraltar, who spared our lives, but nothing else. I was taken in the ship *Minerva*, belonging to Mr. William Bell, merchant, Philadelphia, bound to Barcelona, with cargo of wheat belonging to Mr. Wiseman, of the aforesaid port. with 16 men besides myself. I am kept in the marine at hard labour, and my allowance is bread and water. Sir, we place the fullest confidence in your doing every thing in your power to relieve us from this unfortunate situation and restore us from slavery to the land of liberty. I have the honour to subscribe myself your most obedient humble servant,

JOHN McSHANE.

At the request of the following masters I take the liberty of informing, that they are in the same situation as I have mentioned myself in before.

William Wallace, master, schooner *Dispatch*; Messrs. Gallas and Freeman, Richmond, Virginia, six men besides the master.

Moses Moss, brig *Jane*, owned by himself and Samuel P. Kidder, Newburyport, 7 men besides himself.

Michael Smith, brig *Polly*, owned by Bailey and Noyse, Newburyport, 8 men besides himself.

William Furnace, brig *Olive Branch*, owned by colonel Jonathan Hambleton, jun. Portsmouth, Newhampshire, 6 men besides himself.

William Penrose, ship *President*, owned by Messrs. John and James Craig, Philadelphia, 10 men, one passenger, and himself.

James Taylor, brig *George*, owned by Gibbs and Chaning, Newport, Rhode Island, 7 men besides himself.

Samuel Calder, schooner *Jay*, owned by Ebenezer Pass, Gloucester, 6 men besides himself.

John Burnham, ship Hope, new York, 18 men besides himself.

Timothy Newman, ship Thomas, Boston, owned by Thomas Adams, 10 men besides himself, who were all captured in October last, between cape St. Vincent and the Rock of Lisbon.

*Captain O'Brien to the President of the United States. Algiers, November 5, 1793.*

Most Excellent Sir,

In consequence of the Portuguese obtaining a cessation of hostilities with this regency, the Algerine corsairs have captured ten American vessels; the masters and crews, amounting to one hundred and five subjects of the United States, are employed as captive slaves on the most laborious work; they are in a distressed and naked situation.

Mathias Skjoldebrand, Esq. the Swede consul, has befriended them by advancing them money to relieve their present necessities. We hope you will order him to be reimbursed, and also paid for his generous advance in the ransoming of George Smith, one of the subjects of the United States.

The British nation, the natural and inveterate enemies of the United States, has brought about this truce, or half peace, for Portugal, in order to alarm our commerce and prevent the United States from supplying the French in their present glorious contest for liberty.

A Portuguese frigate is at present at Algiers, relative to their peace. I have reason to believe they will obtain their peace for one million of dollars, not including presents, or the redemption of sixty-five Portuguese captives. The Algerine corsairs consist of ten sail, mounting 40 guns to 16. Those of Tunis consist of twenty corsairs, mounting from 24 guns to 8.

The corsairs of Algiers and Tunis, in consequence of the Portuguese truce, have become masters of the western ocean, and will of course prove very detrimental to the commerce of the United States to Europe. The fatal consequences of those American vessels being captured I presume is fully evident to your excellency's known wisdom and penetration.

Your excellency will perceive that the United States have at present no alternative than to fit out with the greatest expedition thirty frigates and corsairs in order to stop those sea robbers in capturing American vessels. Fifteen of these vessels would be sufficient for a defensive war in

order to guard the straits of Gibraltar, and prevent the Algerine and Tunisian corsairs, even if combined, from visiting the western ocean; but in order to convince the Barbary states of the force and vigilance of American corsairs, it would be requisite the other fifteen American corsairs should be employed in the Mediterranean, in order to destroy many of the corsairs of the Barbary states, and oblige them to make a peace on somewhat honourable terms with the United States.

We should have accepted of the terms offered the United States by the dey of Algiers, which, be assured, most excellent sir, was reasonable considering what other nations pay. But I am afraid that that favourable opportunity is irrevocably lost. But depend, sir, that the dey would wish to be at peace with the United States, provided we paid equal to what the Dutch, Swedes or Danes pay. We should be at peace with all the Barbary states; our colours free and respected, and no subjects of the United States slaves. You must needs think, sir, that in case of the United States fitting out this proposed fleet, that those subjects of the United States which have been nearly nine years in captivity that they would, when redeemed, be a very valuable acquisition to the American corsairs; for by their known experience of the ways and manœuvres of those crafty people, would in a great measure depend the desired effect in capturing the corsairs of this regency.

Humanity towards the unfortunate American captives I presume will induce your excellency to co-operate with Congress to adopt some speedy and effectual plan in order to restore to liberty and finally extricate the American captives from their present distresses.

I am, &c.

RICHARD O'BRIEN,

Late Master of the Ship Dauphin, of Philadelphia, captured in July, 1785

*American Captives in Algiers.*

10 captured in July, 1785.

105 captured in October, 1793.

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115 total.

Cruisers going out in quest of more.

*Extract of a letter from D. Humphreys to the Secretary of State. Madrid, December 25, 1793.*

SIR,—We did not leave Alicant until Thursday the 12th instant, nor arrive here until the evening of Saturday last.

I now take occasion to advise you of the final arrangements I made for the conduct of Mr. Montgomery in the application of that part of the publick money which is destined for relieving the necessities of our citizens prisoners in Algiers, and for contingent expenses; as well as for securing the residue of the publick property now in his possession. This information you will find in the papers marked Nos. 1, 2, and 3. The last you will be pleased to observe, is one of the four original receipts signed by Mr. Montgomery; and as such, ought to be preserved as a voucher for my justification, in accounting for the property of the United States which has come into my hands. Nos. 5 and 6 are copies of letters from captain O'Brien, the former to Mr. Montgomery, the latter to me. In these you will find the most recent intelligence we have from Algiers. I am glad to see, that O'Brien gives an account of eleven American vessels only as having been captured by the Algerines, instead of thirteen which a Jew merchant at Algiers wrote, on the 23d of November to Mr. Montgomery, had been brought in there; but I am induced to suppose he must have mistaken two Geneose vessels for Americans. The account given in the last of the enclosed letters of the dey's actual dispositions and conduct towards Denmark and Sweden (after what has happened in pushing practical hostility in such an unusual manner against the United States and Genoa) gives reason to apprehend that some of the combined powers may have an agency in this business. The departure of Mr. Pierre Eric Skjoldebrand at this moment is an extremely disagreeable and inconvenient circumstance for us.

I have seen the copy of a letter from Mr. Bussara to Mr. Montgomery, received by him since I left Alicant. But the letter being written in bad Spanish, with a mixture of lingua Franca, in a hand not easily legible, Mr. Short, Mr. Carmichael and I could only discover that it was meant to convey a desire from Bussara of being employed himself solely in our negotiations with Algiers; together with information that the dey his master (with whom he says he had held a conversation on the subject) did not believe the government of the United States had ever appointed two commissioners to treat with him, who had died after their appointment; and, in short, that he, the dey, would suffer no other agent to manage our affairs for us at Algiers, but Bussara.

The dey of Algiers having conceived an aversion to the Spanish consul, Aspre, has compelled him to leave the country. The consul has arrived at Carthagena, since we came from Alicant. A former vice-consul, who is said to have

been in great favour with the dey, has been sent by this court to replace the consul who is returned.

In the last letter I received from Gibraltar I have an account of the more tragical effect of the dey's displeasure, in the following paragraph: "Last night Mr. Dodsworth shot himself. He was no doubt induced to this rash action by the dey of Algiers expressing a desire he might not return to that place as British vice-consul." I was personally acquainted with this young man, and from his apparent good disposition had hoped he would have been particularly useful to our countrymen prisoners in Algiers.

Notwithstanding what captain O'Brien says in his letter to me, I conceive there is still good reason to expect that Portugal will not conclude a peace with Algiers; at least the following extract of a letter from the consul of the United States at Malaga to me seems to carry this appearance. "Her faithful majesty, instead of retiring her squadron from Gibraltar, has reinforced it last week with two sail of the line and three capital frigates. They are now ten sail, and have orders to give convoy to all Americans going to the westward, as far as they may require to get into safety from the enemy." And Mr. Simpson, of Gibraltar, advises me of the sailing of five American vessels from thence under the protection of a Portuguese frigate. Lord St. Helens told Mr. Short and myself, yesterday, that the Portuguese charge des affaires here said, at his table, the day before, "Portugal would not give six pence for a peace with Algiers." I have called on the Portuguese charge des affaires, but have not been able to see him.

But if I may be allowed to offer an opinion I would say, under the circumstances I have represented, and after what has happened, it appears absurd to trust to the fleets of Portugal or any other nation to protect and convoy our trade. *If we mean to have a commerce*, we must have a *naval force* (to a certain extent) to defend it. Besides the very *semblance of this* would tend more towards enabling us to maintain our neutrality in the actual critical state of affairs in Europe, than all the declarations, reasonings, concessions and sacrifices that can possibly be made. Denmark, Sweden, and even Genoa, have as yet been able to avoid taking any hostile part, notwithstanding the apparent determination of the combined powers to the contrary. And I need not observe how much less in condition (from their population and other circumstances) to keep up a naval force some of those powers are, than the United States.

As I am not much accustomed to offer opinions after having stated facts to you, I entreat it may be considered in excuse, that the occasion seems to me of the last importance.

No. 1.

*Instructions to Robert Montgomery, Esq. Consul of the United States of America at Alicant.*

SIR,—In the application of that part of the money the property of the United States of America, received by you from me, which is designed for relieving the necessities of the citizens of the United States who are prisoners in Algiers, and for defraying the contingent expenses which have been or may be inevitably incurred on the subject of Algerine affairs, you will be pleased to be guided by the following general principles, viz.

In the first place, in order to hide the nakedness, and screen from the inclemency of the season, the poor American prisoners in Algiers, you will have the goodness to provide for each one of them a comfortable suit of clothing, nearly in conformity to the estimate which has been made out for the purpose, unless the captains should choose rather to receive the amount in money, in which case you will comply with their wishes.

Secondly, you will please to transmit regularly by way of subsistence, and for all other personal expenses, eight dollars a month to each of the captains, six dollars a month to each of the mates, and at the rate of twelve cents a day to each of the mariners.

Thirdly, you will please to repay whatever moneys may have been advanced by the consul general of Sweden at Algiers, or his brother Pierre Eric Skjoldebrand, Esq. to relieve the pressing necessities of the citizens of the United States lately captured and carried into Algiers; also such other sums as may be expended by either of them for communicating intelligence of importance, or for other contingent charges which may become indispensably necessary.

Fourthly, you will please to keep accurate accounts of your disbursements, and obtain as correct vouchers as the nature of the circumstances will admit; in order that there may hereafter be as little obscurity, trouble and delay in the final settlement as possible.

Fifthly, the residue of the property of the United States, deposited by me in your hands, you will please to retain safely in your care, until you may receive farther directions from the Secretary of State for the United States of America,

from myself, or such person as may be duly authorized to dispose it, except under the strong probability of an immediate rupture between this country and the United States, of which Mr. Carmichael will be requested to give you the earliest possible advice by express; in which case you will secure the property of the United States in the best manner you can, by taking bills on any safe port, or otherways; in the transaction of which business you must be guided by your own good discretion and great regard to the publick interest.

Sixthly, you will be pleased to write to the Secretary of State for the United States of America, enclosing a copy of these instructions, and informing him they were given only with a view of remaining in force until they may receive his sanction, or until other directions shall be substituted in their place.

Lastly, you are requested, sir, to open a correspondence with Pierre Eric Skjoldebrand, Esq. with the object of obtaining whatever useful intelligence, and rendering whatever services to the United States may be in your power from your favourable local situation and well known good dispositions. Given at Alicant this 1st day of December, 1793.

D. HUMPHREYS,

Commissioner Plenipotentiary from the United States of America to the Dey and Regency of Algiers.

No. 4.

*Algiers, November 16, 1793.*

SIR,—I had wrote Mr. Humphreys fully by the return of the small courier for Spain, informing there is at present captured by the Algerines ten sail of American vessels; their crews are all made slaves; a few Spaniards were amongst them; they are cleared.

I had wrote my sentiments relative to the proposition. We lost an opportunity that will not be retrieved, except it costs the United States four millions of dollars; but there is no help at present. By all means urge Congress to fit out some remarkably fast sailing cruisers, well appointed and manned. This is requisite, if we do or do not obtain the peace. The Dutch truce wants but fourteen days from this time to be expired and finished; and I am sure that at that juncture, if any one was fully empowered in this place relative to our affairs, we might obtain what we wish. Secondly, I believe the Portuguese will not give the regency the money, &c. that is asked; (this we should not trust to.)

Thirdly, I believe the Danes will shortly have war; but they may easily as yet put their affairs on a solid footing. Look sharp out, Americans, or you will be dupe and buffoon to all Europe. Three are at sea, they have sent into Algiers not known whether an American or English, but I believe the latter, as she has wrote on her stern, the *Minerva*, of Plymouth, loaded with wine and brandy.

There are four more preparing for the Western ocean.

You sent 200 dollars; one of these I gave to the new naked captives. Take care that there will not be many to redeem. Hunger, fatigue, and no hopes, but the plague, and slavery for life, as they see that the victim remnant has been here nine years. That foundation laid by A. B. and D. is tore up; a new one in another channel must be laid, or all must suffer and perish, and with them your most unfortunate

O'BRIEN.

I received Mr. Carmichael's letter of the 13th September. I shall answer him fully when I find a safe conveyance. We must be guarded and use precaution.

(Addressed to Mr. Montgomery, and J. N. B. of Mr. Montgomery.) "The initials of A. B. and D. are A. Bas-sara and Danenos our Jew friends at Algiers."

#### No. 5.

*Captain O'Brien to Colonel Humphreys. Algiers, December 6, 1793.*

HONOURED SIR,—I had wrote you fully the 12th ultimo, by the return of the courier which you sent on our business. I am this day informed that said courier arrived safe in Alicante, and of course you know how our affairs stand in this quarter.

In addition to the ten sail of American vessels captured the first cruise, they have captured the brig *Minerva*, of New York, captain Ingraham, from Livorn; so that there is at present 112 American captives in this city.

Since the departure of the Portuguese frigate we have heard nothing more on that business, on which many conjectures is formed. The dey's terms are, one million two hundred thousand Mexican dollars for the treasury of the regency; six hundred thousand for the dey and family; six hundred thousand dollars for the Algerine ministry, ambassadorial, and consulary presents equal to what Spain gave, which will amount to six hundred thousand dollars, not in-

cluding the ransom of the Portuguese captives. These terms is considered as exorbitant; but, sir, it costs very exorbitant sums to keep up armaments to keep those people from depredations. I think the Portuguese will give all that is asked. They will free their colours and extend their commerce.

The dey has prolonged the Dutch truce, and has commissioned the British consul to write to the Dutch admiral that is to come here to settle the peace, and desiring the admiral to give a definitive answer, peace or war. I believe the dey has given the Dutch three months more. However, depend that the longer the stay the more exorbitant their terms will be, and the more difficulty and opposition to settle the peace.

The Dane affairs is as yet as when I wrote you. It is said that inevitably the Danes may expect war, even if their annual tribute does arrive; and if it does not, this will give the dey a stronger pretence.

The Swede presents for the peace is not come. The dey, enraged, gave the Swedes six months to complete all; if not, they look out for war. This necessitated Monsieur Skjoldebrand, junior, to depart this day from Algiers for Livorn and Sweden, in order to hasten forward the presents, and explain to the Swede court the situation of their affairs; and in consequence our affairs has met with a great loss and strong advocate in the absence of M. Skjoldebrand, junior; but, sir, there is no alternative. Indeed, sir, I see no alternative, but for the United States with all possible speed to fit out ten sail of 40 gun frigates, six brigs of war of 18 guns each, and 4 shooners or cutters of 16 guns each. These to be the fastest sailing vessels ever built in America, well appointed and manned; and to proceed towards Gibraltar, Algeziras, and Mahone, there to rendezvous, and to carry on a vigilant offensive cruising. They will give more security to our commerce than all the marine of Portugal did. And depend, sir, that if this plan is not adopted speedily that the corsairs of Algiers and Tunis will remain masters of the Western ocean. They will cruise in the channel of the Western Islands, and be tempted to go on to the coasts of the United States. Then, sir, what will be the consequences—what will be the alarm? Even if you succeed, or not, the present moment requires we should have cruisers. The same time at all events the door should be left open for the peace; and I am exceedingly sorry, even at this crisis, that you have not fully empowered some confidential person in Algiers to lay the foundation and pave the way, so that you may come

and put a finishing hand to this business, which would be of such importance to our country.

These corsairs are this day eleven sail, mounting from 44 guns to 12, only one is at sea. I am afraid she will be too successful. The corsairs of Tunis are 23 sail, mounting from 24 guns to four. These combined would strike terrou to American commerce, if they in the summer proceed out into the Western ocean; and considering our small prospects with the olive branch will more forcibly indicate to you the necessity of the United States fitting cruisers. Even if we were at peace with all the world, we should have cruisers to give security to commerce, and be ready to act on any emergency.

It is needless in me that has suffered so much to touch on the distress of those unfortunate men. I have known, my country, nearly nine years captivity by her cruelty perhaps unprecedented in the annals of tyranny. They must see their error now too late.

I had forewarned them of this misfortune; but men in adversity is generally paid little or no attention to. They had other information than mine. Those half friends of the United States had their views; mine, depend, was to serve my persecuting country.

I have, sir, taken the liberty of writing you my sentiments on our affairs, but I know that you once declined any such correspondence. You will remember the circumstance. But I at present have no excuse to plead, and depend solicit no favour. Hoping to God your endeavours will be attended shortly with the greatest success, sir, your most obedient servant,

O'BRIEN.

You will please to give the perusal of this letter to Mr. Robert Montgomery; and indeed I write you the same time I am much indisposed; therefore you will make some excuse on that tack.

*Extract of a Letter from D. Humphreys to the Secretary of State. Lisbon, January 30, 1794.*

SIR,—I left Madrid on the 12th, and arrived here on the 25th instant. On my arrival your letter of the 11th of September was put into my hand, which is the only one I have had the honour to receive from you since those that were brought by Mr. Cutting.

I now enclose to you papers of the following numbers and descriptions, viz. No. 1; the copy of a letter to me from the

American captains in captivity at Algiers; No. 2, original memorials from them to the two houses of Congress, which I have promised to transmit to be presented accordingly; No. 3, the copy of a letter from the French consul at Algiers; No. 4, extracts from Mr. Montgomery's letter to me; No. 5, my answer to the letter from the American captains in captivity; No. 6, my answer to the French consul at Algiers; and No. 7, my answer to Mr. Montgomery's letter of the 8th of January. These communications complete my correspondence up to this time on Algerine affairs, and I hope that my proceedings therein may meet the approbation of government. As soon as Mr. Cutting shall have finished the accounts of the disposition of publick property, &c. which had been destined for this service, they shall be transmitted to you without loss of time. After which I shall consider myself exonerated from any farther duties under the commissions of the 21st of March last. Mr. Cutting proposes to leave this place in a short time for Ireland. He will then of course be detached from his connection with the Algerine mission.

Upon consulting with Mr. Carmichael and Mr. Short, it was judged imprudent to make any farther disclosures or overtures to any person in Algiers respecting the terms which had been limited as an ultimatum for obtaining a peace with that regency. Because it was unanimously thought, that to make specifick proposals, which (from the change in the state of affairs) would certainly be rejected, must be highly disadvantageous to the United States in case of any future negotiations.

Having already reported to you all the material facts in the regular order of time at which they occurred, I will only beg leave to add, that as some small personal consolation for the distressing sensations which have been excited by want of success, I cannot but feel a consciousness that the failure has not been owing to any neglect or want of exertion on my part. I also feel a peculiar degree of satisfaction in having received such strong testimonies of approbation as the sufferers themselves have given to my conduct. And I flatter myself it will be judged not improbable that by being at Gibraltar at the time when the Algerine fleet passed the straits, and by communicating rapidly and extensively the knowledge of that event, I may have been at least instrumental in preventing some of our countrymen from falling into the hands of those pirates. Indeed it is unfortunate that all our countrymen did not profit by the fair warning I gave them: this you will perceive, is the case of

one of the captains and crews now in slavery at Algiers, by the following answer which Mr. Morphy, consul of the United States at Malaga, wrote in consequence of my inquiry respecting that fact—"Captain Calder of the schooner Jay, is the identical man, that very unwarrantably put to sea from hence, after having been made acquainted with the news you gave me of the Algerines having passed the straits."

All agree that the number of American vessels which have fallen into the hands of the Algerines is much less than could have reasonably been expected from the circumstances.

I have just had a conference with the Secretary of State for foreign affairs. He informs me that this court has sent a second messenger to Algiers; that the terms insisted upon by it are such as give the greatest reason to believe the dey and regency will not accede to them; and that in about fifteen days an ultimate answer may be expected; of which notice will be given to me.

Another convoy is granted by this court, expressly for the American vessels now here, which amount to twenty-two sail. With sentiments of great esteem, &c.

D. HUMPHREYS.

No. 1.

*Algiers, December 29, 1793.*

HONOURED SIR,—We the subscribers, in behalf of ourselves and brother sufferers at present captives in this city of human misery, return you our sincere thanks for your communications of the 29th ultimo, and for the provision you have been pleased to allow us, in order to alleviate somewhat our sufferings in our present unfortunate situation.

We have drawn up and signed two petitions, one to the Senate, the other to the House of Representatives, and we shall esteem it among the many favours you have rendered us that you will please to forward these petitions to their respective address, so that no time may be lost, but that they be laid before the representatives of our country, hoping that the United States will fully provide funds for extricating from captivity, and restore us to our country, families, friends, and connections.

We have perused with sentiments of satisfaction and approbation your memorial to the regency of Algiers; and have to observe, that its contents fully coincide with our sentiments on this business, which we trust in the Almighty will terminate to the honour and interests of our common country, notwithstanding the insinuations (of others in this quarter) to the prejudice of the United States.

We trust and hope that the United States will adopt such effectual plans in order to prevent any more of our brethren sharing our unhappy fate, which unavoidably must happen if some speedy and decisive means is not immediately put in execution, as we understand the Portuguese truce with this regency was agreed on for one year.

What damps our spirits in some degree is that we are informed that the plague, that fatal and tremendous disorder, has given its awful alarm in the countries adjacent. And as your unfortunate countrymen are confined during the night time in the slave prisons with six hundred captives of other nations, that from our crowded situation we must be exposed to this contagious disorder, which necessitates the subscribers to entreat you, sir, that in this case those our friends and of influence in this regency will be authorized by you and our honoured countrymen, Mr. Carmichael and Mr. Short, to have a house taken for the residence of the American masters and mates, and if possible the mariners, to shield them from the threatening storm of mortality and danger.

We make no doubt but in case of the Almighty's wrath visiting this city of iniquity, but the dey and regency would acquiesce to the proposed plan of humanity, which would be establishing an example for the general welfare of mankind, and would to posterity be recorded to the immortal honour of the United States.

The same time, honoured sir and friend, be you assured for your consolation, that we the American captives in this city of bondage will bear our sufferings with fortitude and resignation, as becoming a race of men endowed with superior souls in adversity.

We are much indebted to Mr. Skjoldebrand and brother, his Swede majesty's agents in this city, for their humanity and attention to the American captives, and feel ourselves particularly obliged to you for recommending us to the good offices of consul Skjoldebrand and Mr. Mace, whom you mention to us as a friend. With sentiments of gratitude, &c.

The subscribers in behalf of ourselves and brother sufferers,

Richard O'Brien, John M'Shane, Wm. Penrose, Moses Morse, Joseph Ingraham, Wm. Furnass, John Burnham, Isaac Stephens, Timothy Newman, Samuel Calder, Michael Smith, James Taylor, Wm. Wallace.

N. B. The foregoing addressed on the outside "Hon. David Humphreys, American Ambassador at present in Madrid."

No. 2.

*Algiers, December 29, 1793.**To the Honourable House of Representatives of the United States of America.*

THE humble petition of the American captives in Algiers, most humbly sheweth, That your petitioners had the misfortune to be captured by the corsairs of this regency in October and November last, whilst we were navigating vessels belonging to citizens of the United States. That your petitioners and their crews are at present captives in this city of bondage, employed daily on the most laborious work without any respect to persons.

That your most humble petitioners are informed, that the plague, that fatal and tremendous disorder, is raging in the country adjacent, and as your unfortunate petitioners are confined in two slave prisons, with six hundred captives of other nations, that from their situation, the wisdom of the United States will consider what must be the fatal effects of the plague spreading and becoming amongst the captives.

That your petitioners return their country their sincere thanks for the provision allowed them by their worthy representative, Mr. Humphreys, which provision in some degree helps to alleviate somewhat our hard fate and sufferings, without which allowance our lives would be rendered much more burdensome and unhappy.

That your petitioners pray you will take their unfortunate situation into consideration, and adopt such measures as will restore the American captives to their country, their friends, families, and connections, and your most humble petitioners will ever pray and be thankful. Signed by the underwritten masters, in behalf of themselves and brother sufferers.

Richd. O'Brien, Wm. Wallace, Joseph Ingraham, Wm. Furnass, Saml. Calder, Jn. M'Shane, Wm. Penrose, John Burnham, Isaac Stephens, Timothy Newman, Moses Morse, Michael Smith, James Taylor.

*American Vessels Captured by the Corsairs of Algiers in consequence of the Peace with Spain, in 1785, and the Truce with Portugal, in 1793, viz.*

SHIP Dauphin, Richard O'Brien, master, belonging to Messrs. Mathew and Thomas Irwins of Philadelphia, captured the 30th July, 1785; crew at present

Schooner Maria, Isaac Stephens, master, belonging to Mr. William Foster, of Boston, captured the 25th July, 1785; crew at present

4

Ship Minerva, John M-Shane, master, belonging to Mr. Wm. Bell, of Philadelphia, captured the 18th of October, 1793; crew

17

Ship President, Wm. Penrose, master, belonging to Mr. John Craig, of Philadelphia, captured the 23d of October, 1793; crew

12

Ship Hope, John Burnham, master, belonging to Mr. Jn. N. Thompson, of New York, captured in October, 1793; crew

18

Ship Thomas, Timothy Newman, master, belonging to captain Thomas Adams, of Boston, from Cadiz, captured October the 8th, 1793; crew

9

Brig Polly, Michael Smith, master, belonging to Messrs. Baily and Nois, of Newburyport, captured the 25th of October, 1793; crew

9

Brig George, James Taylor, master, belonging to Messrs. Gibbs and Channing, Rhode Island, captured the 11th October, 1793; crew

8

Brigantine Olive Branch, Wm. Furnass, master, belonging to colonel Thomas Hamilton, New Hampshire, captured 11th October, 1793; crew

7

Brigantine Jane, Moses Moss, master, belonging to Messrs. Moss and Kidder, of Haverhill, captured the 11th October, 1793; crew

8

Schooner Despatch, William Wallace, master, belonging to Messrs. Gillis and Freesland, Norfolk and Petersburg, Virginia, captured the 8th of October, 1793; crew

7

Schooner Jay, Saml. Calder, master, belonging to Mr. David Pierce, of Gloucester, captured the 12th October, 1793; crew

7

Brig Minerva, Joseph Ingraham, master, belonging to Mr. Taylor, of New York, captured in November, 1793; crew

7

Total, 119

#### RECAPITULATION.

13 Masters,	5 Ships,
- 13 Mates.	5 Brigs,
4 Second Mates,	3 Schooners.
2 Supercargoes,	--
87 Mariners.	13 Vessels.

119 Total, American Captives.

## No. 3.

## TRANSLATION.

*Algiers, Dec. 15, 1793, 2d year of the French Republick.*

SIR,—The navigation of the United States has just been odiously abandoned to the corsairs of this regency. I have thought that it would probably be convenient to Congress to make peace with Algiers; and that the mediation of one free people in favour of another, would be the most agreeable to your nation; I am therefore going to make the overture on the subject to the minister for foreign affairs at Paris, I should be charmed if my endeavours prove useful to your country. I should be as attentive to its suffering interests as to those of my own.

I must inform you, however, that your peace here will inevitably be costly, but if those of Portugal and of Holland should miscarry, the circumstance would then prove favourable to you, and your conditions would become less onerous. I greet you, &c. The consul of France at Algiers.

VALLIERE.

N. B. The cover which contained the original of the above, was addressed as follows, viz:

Monsieur L'Ambassadeur Americain à Alicant.

## No. 4.

*Extracts of a Letter from Mr. Montgomery, to D. Humphreys. Alicant, January 8.*

“IF I may venture to give an opinion on that subject, I think the supercargoes ought to be put on a footing with the masters, and the second mates with the mates, in point of subsistence, for which I shall give instructions by next conveyance, if I have no orders from yourself to the contrary.”

“I do not find that I shall shortly have an opportunity to send over the clothing. Pray might I charter a barque to carry that and some more money that will be wanting towards the end of this month, providing we have no other way of doing it before that time?”

## No. 5.

*To Captain O'Brien, and the other Captains and Citizens of the United States, now Prisoners in Algiers. Madrid, January 12, 1794.*

MY DEAR SIRs,—I have been favoured by the receipt of your joint letter, dated the 29th of December; and as I am about to set out immediately for Lisbon, I shall be able to do little more than to assure you, that your memorials to the Senate and House of Representatives of the United States shall be forwarded to them in the earliest and safest manner possible.

Having communicated to Mr. Carmichael and Mr. Short your apprehension that the plague may be again introduced to Algiers from the adjacent countries, where it is already said to prevail, we have not hesitated to concur with you in sentiment, that in case of that dreadful event, it might be useful for you to have a house hired in the country, in order to endeavour by all human precautions to prevent your falling victims to that terrible disorder. Whereupon Mr. Robert Montgomery, consul of the United States at Alicant, has been empowered, in case that dreadful event should happen, to furnish sufficient money to pay for the hire of a house in the manner and for the purpose you propose. This provisional arrangement to continue in force until Mr. Montgomery shall receive ulterior instructions from the government of the United States for continuing or suspending the same.

I entreat you will be persuaded, my dear and unfortunate countrymen, that I receive with great satisfaction the marks of your approbation of the honest, but ineffectual, efforts I have made in your favour. Would to heaven they had been as successful as they were disinterested and sincere. I have only to repeat that you may at all times, and on all occasions, count upon the sympathetick regard and esteem of your real friend and affectionate fellow citizen.

D. HUMPHREYS.

P. S. Although I have repeatedly remarked that it may perhaps (for particular reasons) be inexpedient for me to keep up a regular correspondence with you; yet it is proper I should add, that I shall always be glad to hear from you, and that it may be particularly interesting to the government of our country to receive at the earliest possible period all intelligence of importance. I shall therefore al-

ways be ready to communicate such intelligence until some nearer and better channel of communication can be established.

## No. 6.

*Col. Humphreys to M. Valliere, French Consul at Algiers.  
Madrid, January 12, 1794.*

SIR,—I have duly received in this place the letter which you were pleased to address to the American ambassador at Alicant, on the 15th of December last, and shall without loss of time have the honour of transmitting a copy thereof to the Executive of the United States of America.

In the mean time in making my acknowledgments for your obliging offers, I avail myself, &c.

D. HUMPHREYS.

## No. 7.

*Colonel Humphreys to R. Montgomery, Esq. U. S. Consul at Alicant. Madrid, January 12, 1794.*

MY DEAR SIR,—I have had the pleasure to receive by the last mail your letter of the 8th inst. and being on the point of departure for Lisbon, I can only briefly reply to the most interesting parts of it.

I coincide with you in opinion with respect to the provision which should be made for the supercargoes and second mates in captivity at Algiers. You must act according to the best of your discretion in hiring a small barque to carry over the clothing and necessaries to Algiers, or in still attempting to find a conveyance for them by the packet from Carthagena, or some private vessel from Valencia or elsewhere. If the expense of hiring a small barque on purpose (inconsiderable as the expense may be) can be avoided without leaving the prisoners to suffer, it certainly will be eligible to avoid it. If not, the expense will come under the head of inevitable contingent charges, which you must be authorized to make.

Upon consulting with Mr. Short and Mr. Carmichael, it was judged expedient that, in case the plague should again make its appearance in Algiers, the American captains, &c. in captivity should be enabled to hire a house in the country in order to prevent them (if possible) from falling victims to that dreadful scourge of heaven. In which case, therefore, you are hereby empowered to make the necessary advance of money, from the money of the United States deposited by

me in your hands, to pay for the hire of said house until the government of the United States shall have been apprized of this provisional arrangement, and shall have thought proper to express their pleasure for continuing or suspending the said arrangement. And you are requested to apprise them of the arrangement accordingly. With sentiments of great regard and esteem, I am, &c. D. HUMPHREYS.

P. S. I have again mentioned the subject of hastening the signature and final despatch of your exequatur to the person alluded to in your letter. This is all that it would be proper for me to do in the business. You will be pleased, after perusing and sealing the letter for the American captains in captivity, to forward it to them by some safe conveyance. Have the goodness to offer my compliments as usual.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO SPANISH COMMISSIONERS. MARCH 12, 1794.

I TRANSMIT to you the translation of two letters from the commissioners of his catholic majesty to the Secretary of State, and of their enclosures.

GEO. WASHINGTON.

SIR,—Some circuitous course of the despatches having retarded our receiving the edict of his majesty containing the declaration of war against the French, in consequence of their having declared war against Spain and committed hostilities authorized by that government, even when war was not yet declared, we were not enabled to inform you, sir, in an official manner of the resolution of the king our master: Therefore we have the honour to do the same at present by enclosing a printed edict of that monarch, which you will please to lay before the President of the United States, in order to be communicated to Congress.

The weighty motives that determined his majesty to adopt a conduct contrary to his pacifick views, manifestly appear by the tenour of the enclosed instrument, and will no doubt

convince the United States of the just reasons which operate on the king for doing the same. Offering our best services, we remain, &c.

JOSEPH IGNACIO DE VIAR,  
JOSEPH DE JAUDENES.

*Edict of His Majesty transmitted to all the Councils of State, of War, to Castile, the Indies, the Inquisition, to all Orders, and the Treasury Department.*

AMONG the principal objects that occupied my attention since my exaltation to the throne, I always considered that to be the most important that prompts me to contribute, as to my part, to the maintenance of the tranquillity of Europe, whereby, besides adding to the general welfare of mankind, I gave to my faithful and beloved vassals particular proofs of the paternal vigilance with which I seize all occasions to promote their own happiness, that engages my fondest wishes, and to which they are no less entitled by their unparalleled loyalty than by their noble and generous conduct.

The moderation that directed all my measures taken concerning France, since that period when the principles of confusion, of impiety, and anarchy were displayed, and those disturbances began, which threw her inhabitants in the utmost agitation and ruin, is a matter so notorious, that it would be superfluous to adduce any further proofs thereof. I confine myself, however, only to draw your attention to the late events of the last months, without mentioning those manifold transactions, the very idea whereof, I wish to banish from my mind and that of my beloved vassals, alleging only the most horrid of the same, as it cannot be omitted.

My principal views were concentrated in one point, to wit; to try whether it was possible to prevail on the French to embrace a reasonable conduct, that by renouncing their boundless ambition, a general war over Europe might be prevented, and in consequence thereof personal liberty might at least be procured to the most christian king, and to his august family, who are confined in a tower, and daily exposed to the most pungent outrages, insults and dangers. To obtain an end so beneficial to general tranquillity, so conformable to the dictates of humanity, and so coinciding with the obligations which the ties of consanguinity impose upon us, and are requisite to support the splendour and dignity of our crown, I yielded to the repeated instances of the French ministry by causing two notes to be executed, in which neutrality and a reciprocal recalling of the troops were stipulated.

When they perceived they had obtained the object of their negotiation, they accepted of both, but changed that one respecting the recalling of their forces by proposing to keep part of the same in the environs of Bayonne, under the palpable pretext of being under apprehension of an invasion of the English, but in reality to indulge their own conveniency by placing themselves on a formidable footing, that occasioned great expense on our side, as we thereby were obliged to continue an equal force on our frontiers, if we would not have our dominions exposed to be overrun by undisciplined and unruly people. They could not refrain from using (in the same note) repeatedly, and with a great deal of affectation, that expression, "In the name of the Republick of France," thereby endeavouring to get it acknowledged by us, as such, by the very act of our accepting that official paper.

I had given orders that when those notes executed here, should be presented at Paris, at the same time the most efficacious measures should be taken to procure relief to king Louis the xvi. and his disgraced family; and if the safety of the lives of those royal persons was not explicitly expressed as the absolute condition of the neutrality, and disarming stipulated, it was done for the apprehension the situation of the cause itself might be hurt, on the happy event whereof, I had taken so warm and due a concern. I, however, at the same time, was convinced that without an extreme bad faith on the side of the French ministry it never could be controverted, that so strong a recommendation and interposition, accompanied with the immediate despatching of those notes, must be construed as standing in a secret, and so close a connection with the same, that there was no possibility to carry one point into execution, in case they should refuse to fulfil the other part of the convention, as the omitting of an explicit expression of that condition was advised by delicacy, and with a view, that the French ministers the easier might prevail on the different parties, by which France at that time was, and is still divided, and so might be enabled to bring about that good end, which to embrace, we then had reasons to think her disposed to.

Her bad faith has manifested itself since, when she, feigning to be ignorant of what she owed to the recommendation and interposition of a sovereign placed at the head of a great and gallant nation, yet insisted on the admission of those notes in their altered quality, and accompanied her different urgent applications concerning them with threats, that the persons charged here with her affairs should, in case of a refusal, be recalled. Whilst they continued those negotia-

tions, they committed the barbarous and unheard of murder of their own sovereign; and when my heart and that of all Spaniards was filled with horror and mournful indignation at so atrocious a crime, they durst yet to continue their negotiations certainly not supposing that there was a probability of their being admitted without compromising my own honour and that of my subjects, well knowing that any application under such circumstances really bears the stamp of irony and mockery, to which no hearing could be given, without violating honour and decorum. They requested passports to embark their agents, which were granted. At the same time a Spanish vessel being taken on the coast of Catalonia, by a French vessel, I ordered the commander in chief to act by reprisals; and at almost the same time intelligence arrived of other captures made by their vessels, and of their detaining and laying an embargo on our shipping at Marseilles, and other ports of France. Finally, they on the 16th declared war against us, in which we were involved before (though without a publick intimation) from at least the 26th of February, that day being the date of the commission against our men of war and merchantmen, and of the other papers that were in possession of the French privateer called the Fox, captain John Biptista Lalaune, when he took our brig, the Active, commanded by captain don Juan de Dios Capete, with a Spanish vessel laden with gun powder conducted by him.

Therefore, to retaliate such conduct, and considering the hostilities begun by the French, even previously to the declaration of war, I have despatched all proper orders to detain, destroy, and attack the enemy by sea and land, as opportunities may offer, resolving and ordering that from hence war is declared at this court to France, her dominions and inhabitants, and that those regulations be despatched throughout every part of my dominions, that they may prepare for their defence, and for open offence against the enemy. The present are conformable with the records in council for the accomplishment of what relates thereto. Given at Aranjuez, the 23d of March, 1793.

By the King.

COUNT DE CANADA.

Attest, the Copy to be conformable to its Original.

JAUDENES & VIAR.

## TRANSLATION.

*Messrs. Jaudenes and Viar to E. Randolph, Esq. Secretary of State. March 5, 1794.*

SIR,—The assurances of harmony and good disposition towards Spain, which, on different occasions the government of the United States have given to us, and especially those which you, sir, on the first instant verbally repeated to don Joseph de Jaudenes, and which corresponded with the contents of your favour of the 2d of said month duly received by us, do not seem to authorize proceedings so hostile and contradictory as those practised by several individuals, citizens of the United States.

Your penetration will immediately lead you to perceive that we allude to those expeditions which are in motion in the respective states of South Carolina, Kentucky and Georgia, against the dominions of the king our master.

The copy of a letter written by the governour of East Florida, near Georgia, (which we have the honour here to enclose for your consideration) plainly asserts the truth of what lately passed, and the different intelligence received in this capital evince the authenticity of the others.

As the cited letter of the governour of Florida sufficiently and strongly urges the nullity of the like conduct on our part within the United States, and the government of the United States must needs be informed thereof better still, we deem it superfluous to dwell here on representations against absurd charges of this kind; therefore, we confine ourselves to express the great sensation occasioned by the reflection, that the insufficiency of this government to enforce the execution of their laws and regulations, as well as the notorious partiality of their citizens and individual inhabitants in favour of France, tending to the open prejudice of the interests of Spain, are likely to interrupt the good understanding and sincere amity that happily subsisted between the two nations to the present period, and which the United States cannot but look upon as a connection of consequence.

We expect with confidence that the energetick and prudent measures the States will adopt for preserving so advantageous a connection, as that with the nation we have the honour to represent, will be productive of the most solid and reciprocal harmony, to cultivate which his majesty has ever shown so happy a disposition. We have the honour to subscribe ourselves, &c.

J. DE JAUDENES,  
J. DE VIAR.

P. S. According to our best information a certain Dr. O'Fallen is one of the principal accomplices and abettors of the plot for the expedition on the other side of the Ohio, being the same person whom the government of the United States ordered to be apprehended on the application of our predecessor in office, don Diego de Gardoqui, for projects of a similar nature.

He was it seems designing enough to avoid being taken, and to keep himself concealed. As the seizure of his person has not been yet effected, it is obvious that the United States did not pay due attention to a matter of so serious a nature.

Edmund Randolph, Esq.

TRANSLATION.

*Governour of East Florida to Governour Mathews.*

RESPECTED SIR,—On the 7th instant I wrote to your excellency by Mr. Juan Wallie, vice consul of Great Britain in this city, that I have in my possession a declaration made on oath by an inhabitant of the city aforesaid, by which it appears, that there is an expedition under contemplation and preparing against this province; that the American colonel Samuel Hammond is to have the command thereof; that capt. Hardy is one of the persons appointed to enrol the people residing in the county of Camden; that the troops so enlisted are to take an oath of fidelity (allegiance) to France; and that they have also a naval force ready to act in concert with them for the same purpose. Then I entreated your excellency what I expected from your well known zeal, that you would not neglect any exertion to counteract those wicked designs, that might disturb the intimate friendship subsisting between the court of Spain and the United States.

On the same date I further informed you of my having charged the British vice-consul above mentioned, personally, to appear in my name, and representing my person and that of the king my master, before your excellency, or before any other tribunal, with a petition to have the ringleaders of that premeditated attempt put under arrest, in order to obtain the satisfaction and redress due for the insults that were preparing for the royal flag and the dominions of his majesty. Subsequent to that information I received further intelligence that the hostile project was on the eve of being executed; that in the county of Camden aforementioned there is a body of sixteen hundred cavalry in three divisions under orders of the said Samuel Hammond, who has been appointed brigadier general in the French service; that the

said divisions of cavalry are fully equipped and officered ; that in the fortified ports of Temple and Coleraine, lying in the neighbourhood of that city and adjacent to this province, there are formed two large magazines of provisions and ammunition of all kind, that were purchased by Mr. Abner Hammond, a brother of the commander in chief of that expedition, who is appointed colonel for the cavalry, both being inhabitants of that city ; that there are three French frigates to sail from the port of Beaufort, having a thousand or eleven hundred men on board, in order to attack this province both by sea and land at the same time, which will be done in at least three weeks. Those advices not being of an indifferent nature, I had them proved by declarations of various subjects, and confirmed on oath, and what is more still, I caused the same to be signed by the above mentioned Mr. Abner Hammond, one of the principal heads of the plot, whom I had the good fortune to seize within the limits of my jurisdiction on the beach of the river St. Juan, whom I now keep under strict guard.

It is a matter incomprehensible to me how men of character and influence in that city, as both the brothers Hammonds are, as well as others, suffered themselves to be seduced by the wicked insinuations of the French, even to such a degree as to compromit their own country, as it is well known to your excellency that the raising of troops within the territory of of a neutral power, as that of the United States is, or to sail from its bosom with land and sea forces to carry the sword into this province, is an evident violation of the law of nations, and a breach of the neutrality so solemnly declared, and consequently insulting a powerful monarch in the most formal and unequivocal manner.

Your excellency received my former information, by which I communicated to you the whole of the machinations that were put in motion in that city under your protection against this province under my trust. Being fully persuaded that your excellency, actuated by your zeal in the service, have taken the most efficacious measures to put a stop to those designs by arresting the leaders, as I requested you before and do now request you again by the present requisition, which I transmit to you in the most formal terms, in consequence of which you will please to exert your utmost efforts, till the said plot shall be entirely destroyed. Meanwhile I make all possible dispositions to due defence to repel force by force,; of all which I shall render an exact account to the king my master, enclosing for his superior consideration all proofs I am possessed of, and which ascertain the im-

minent danger of an approaching invasion of the royal flag and his majesty's dominions, that his majesty may cause such steps to be taken as may secure due redress to his majesty.—I have also enclosed them to his ministers to Congress, that a demand may be there made in requisite form.—Repeating to your excellency the continuance of my affection to your person, I pray God will spare your life many years. Given at Augustine, in Florida, on the 22d of January, 1794.

B. L. M. DE V. C.

JUAN NEPOMUCENO DE QUESADA.

His Excellency Don Jorge Mathews.

Attest, the Copy to be conformable to its Original.

JAUDENES,  
VIAR.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO DEMAND OF FRANCE FOR MONEY. MARCH  
18, 1794.

THE minister plenipotentiary of the French Republic having requested an advance of money, I transmit to Congress certain documents relative to that subject.

GEO. WASHINGTON.

### TRANSLATION.

*The Minister Plenipotentiary of the Republic of France to Mr. Randolph, Secretary of State of the United States. Philadelphia, 11 of Ventose, 2d Year of the French Republic. March 1, 1794.*

SIR,—The necessities of the inhabitants of St. Domingo who have taken refuge in the United States, since the burning of the Cape, have been noticed by the mother country. She is eager to recall to her bosom her unfortunate children for the purpose of consoling and relieving them. The executive council have charged me to furnish them the means of returning to France. I must address myself to the United States for an advancement of the sum requisite to defray the expenses and preparations of their voyage; that which has been voted by Congress being insufficient to fulfil the intention of the executive council. I have every reason to be-

lieve that the United States will readily concur in the completion of it. Suffering humanity is in question, and those who suffer are Frenchmen. I greet you fraternally.

JH. FAUCHET.

TRANSLATION.

*J. Fauchet to Secretary of State. Philadelphia, the 11 Vendose, 2d Year of the French Republick. March 2, 1794.*

SIR,—I have reflected on the request you have made to indicate to you, by approximation, the sum which would be necessary to fulfil the engagements contracted by the different agents of the Republick, and find that I shall want at least a million of dollars, payable in six months, to satisfy the wants of Frenchmen at present in the United States, and to pay off debts which, in whatever manner they may have been contracted, are sacred to the Republick, because they have been contracted in her name. The minister plenipotentiary of the Republick of France. JH. FAUCHET.

*Secretary of State to J. Fauchet. Philadelphia, March 12, 1794.*

SIR,—Your letters of the 1st and 2d instant, requiring the advance of a million of dollars, have been laid before the President of the United States. He instructs me to inform you, that the sum of 1,500,000 livres shall be paid to your order as minister plenipotentiary of the French Republick, on the 3d of September next, and an additional sum of 1,000,000 of livres on the 5th of November next, 1794; that for the present all claim for the anticipations which are understood to have been made by the United States will be suspended; and that, in the mean time, any of your draughts within the above limits and epochs shall be registered at the treasury in the order of their presentation. The President, in the determination now announced, has consulted a disposition to comply with your desire, as far as the situation and prospects of the United States have appeared to him at this juncture to permit.

I shall be happy to have a personal interview with you upon this occasion. As two o'clock this afternoon and my office seemed, from what passed between us yesterday, to be an agreeable hour and place, I beg leave to expect you.

I have the honour, sir, to be, &c. EDM. RANDOLPH.

## TRANSLATION.

*Jh. Fauchet, Minister Plenipotentiary from the Republick of France, to Mr. Randolph, Secretary of State of the United States. Philadelphia, the 22d Ventose in the second Year of the French Republick. March 12, 1794.*

SIR,—I have received your letter dated to-day, and I observe with chagrin the dispositions it contains.

When I asked for the advance of a million of dollars, I hoped that a part of that sum would be paid down to me, and the rest at different periods, the last of which should not exceed six months ; but, contrary to my hope, the first term of payment is indicated at that epoch only, and the advance to be made to me confined to half the sum which I had requested.

I pray you, sir, to observe to the President of the United States, that this determination will obviate none of the embarrassments in which I find myself ; that I must pay cash to the captains of the vessels which may take the colonists to France, and for the subsistence which those unfortunate people require ; that I must advance to the latter for such stores, at least as are of the first necessity. I request you, sir, to add also, that numerous draughts are drawn on me at sight, or within short periods of each other, by the different agents of the French Republick, either for articles of provision for the crews of vessels ready to sail, or for expenses incurred antecedent to my administration, and which it is impossible for me to postpone satisfying immediately.

These various observations will without doubt operate a change in the resolution of the President which you have communicated to me ; and the sincere picture, which I have traced to you of my situation, will engage him to make an effort in favour of the allies of America ; and under this reflection, sir, I renew to you the assurance, &c.

JH. FAUCHET.

*To the President of the United States.*

I CERTIFY that the instalments which, according to the contracts respecting the debt to France accrue in the present year, are 1,500,000 livres on the 3d of September, and 1,000,000 of livres on the 5th of November, which, was there no anticipation, would be payable on those days respectively. The amount anticipated, there being some unsettled items, cannot be pronounced until a definitive settlement shall have been had. Treasury Department, March 18, 1794.

ALEXANDER HAMILTON,  
Secretary of the Treasury.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO DESPATCHES FROM SPAIN, AND LETTERS FROM  
BRITISH MINISTER. APRIL 15, 1794.

I LAY before you a letter from the minister plenipotentiary of his Britannick majesty to the Secretary of State; a letter from the Secretary of the territory south of the river Ohio, enclosing an ordinance and proclamation\* of the governour thereof; the translation of so much of a petition of the inhabitants of Post Vincennes\* addressed to the President as relates to Congress; and certain despatches lately received from our commissioners at Madrid.—These despatches from Madrid being a part of a business which has been hitherto deemed confidential they are forwarded under that view.

GEO. WASHINGTON.

*Mr. Hammond to the Secretary of State. Philadelphia, April 11, 1794.*

SIR,—In a letter which I had the honour of addressing to your predecessor, on the 12th of September last, I communicated to him an additional instruction given by his majesty's order in council of the 8th of June, 1793, to the commanders of all British armed vessels, and accompanied it by some few observations, explanatory of the principles in which it had originated. But as Mr. Pinckney has recently presented to his majesty's ministers a memorial relative to the instruction in question, I am directed to submit to you, sir, some farther remarks on this subject, in reply to that gentleman's representations.

I have formerly stated, that at the period of issuing this instruction, the situation of France was notoriously such as to point out the prevention of its receiving supplies as one of the means of reducing it to reasonable terms of peace; and that this species of commerce being almost entirely prosecuted by the then ruling party of France, it could no longer be regarded as a mercantile speculation of individuals, but as an immediate operation of the very persons who had declared and were carrying on war against Great Britain. Notwithstanding this situation, and these circumstances, his majesty's government, so far from proceeding

\* These papers are omitted, having no connection with the foreign relations of the United States.

to the extent which the law of nations would have warranted, adopted regulations by which its limits were contracted, and its rigour was qualified: For the instruction only prevented the French from being supplied with *corn*, omitting all mention of *other* provisions, and especially of *rice*, one of the staple agricultural productions of the United States; and even with regard to *corn*, the regulation, instead of a confiscation of the cargoes, assured to the neutral proprietors a full indemnification for any loss they could possibly sustain.

It is not essential to the present question to enter into an examination of the different definitions which, as you, sir, well know, have been given of *the law of nations*, and of the consequent diversity of sentiment that has prevailed, as well with respect to the principles on which it is established, as to the obligations which it prescribes. I shall therefore not hesitate to admit the broad basis which Mr. Pinckney has assigned to it—reason and the usage of civilized countries. But I must premise, that though the principle of reason be immutable, its dictates are sometimes governed by circumstances, or liable to different interpretations; and that the usage of nations is fluctuating. Hence, then, in order to ascertain the real nature of the system which is established on this basis it is necessary to recur to the result of the experience and wisdom of ages and of nations, as it is collected and exposed by those authors who have treated this subject. If it be examined by this criterion, it is manifest that the right of a belligerent power to stop and even to seize supplies of provisions going to its enemies is strongly inculcated in all the *ancient* authors; and is recognised by Vattel, whose writings contain a much more modified and limited system in these respects than that which is to be found in the books of authority on which the practice and law of nations rest; and in point of fact it would, I doubt not, be found on investigation, that the milder usage with respect to provisions is of a recent date. In regard to the collateral argument which Mr. Pinckney deduces from the enumeration of articles, denominated *contrabande de guerre*, as contained in particular treaties, it is proper for me to observe, that those treaties are not declaratory of the law of nations, but are restrictions and modifications of that law by special agreements between the contracting parties, and are consequently neither binding on other powers, nor even on the parties themselves in other cases. But even conceding the argument to be well founded, the conclusion from it would be favourable to the regulation enforced by his ma-

jesty's order of council. For of the two only existing treaties, by which his majesty's conduct is regulated towards nations neutral in the present war, one (that with Sweden) expressly includes *provisions* in the enumeration of articles *contrabande de guerre*,\* and professor Martens, one of the most accurate and unquestionably one of the most modern writers on the law of nations asserts (page 390, vol. 2) that *corn* and other *provisions*, even *brandy, and tobacco*, are comprehended under the denomination of *contrabande de guerre* in some treaties of commerce. The same author, in the section to which I have referred, adds, that the maritime powers (especially since the end of the last century) have introduced a practice of declaring to the neutral nations, at the commencement of a war, the articles which would be regarded as contraband; and the sole limitation which he appears to assign to declarations of this nature, is, that they shall not operate to the prejudice of particular treaties which may subsist between the neutral nations and the belligerent power promulgating such declarations. I shall certainly not controvert Mr. Pinckney's position, "that it is the common interest of mankind that a culture, which, like that of the soil, furnishes sustenance and employment to so great a proportion of them, should not be interrupted or suspended because two nations are involved in war:" But I must at the same time be permitted to observe, that it is at least a questionable point whether the interests of humanity be not best consulted by a recurrence, on the part of a belligerent power, to all the *honourable* means of imposing on an enemy the necessity of submitting to reasonable terms of accommodation, and of thereby abridging the duration of the calamities of war. The expectation of imposing this necessity is the motive, under the influence of which this instruction has been issued, and is the *acknowledged* ground of my former explanations of it; is founded in justice and reason; is warranted by precedent; and is inculcated by those writers whose sentiments on questions of this kind are entitled to every degree of authority and respect.

The only part of Mr. Pinckney's representation upon which it remains for me to offer any further remarks is his apprehension lest the acquiescence of the United States in this instruction, being considered by France as a pretext and as a violation of neutrality, that nation might derive from those considerations the right of pursuing a similar course.

\* Vide the eleventh article of the treaty of alliance concluded on the 21st of October, 1661, between king Charles the Second and his Swedish majesty.

But it is notorious that the conduct of the actually ruling party of France with relation to provisions the property of a neutral power, both *previously* (as it is indeed declared in the decree of the national convention of the 9th of May) and subsequently to the instruction in question, has been such as that which Mr. Pinckney appears to imagine that this measure on the part of the British government would have a tendency in future to produce.

Having now, sir, I hope, satisfactorily evinced that the right of a belligerent power to detain and even seize provisions destined for its enemy is not a *novel* doctrine, but is consonant to the law of nations, as explained by the best authors on the subject, and is even recognised by the stipulations of particular treaties, I cannot avoid expressing my conviction that the modification contained in the instruction of the 8th of June, to which it is the intention of the king's government to adhere, will be regarded by this government as more favourable to the commerce of America than the general principle of the law of nations, and consequently as a proof of his majesty's sincere disposition to cultivate and maintain with the United States the most cordial harmony and good understanding. I have the honour, &c.

GEO. HAMMOND.

*Extract of a Letter from Messrs. Carmichael and Short to the Secretary of State. Madrid, January 7, 1794.*

OUR very prolix letters of April 18th, May 5th, and June 6th, will have made you fully acquainted with what had taken place at their respective dates. You will have seen that from the first conference we were fully confirmed in what we had suspected from the time of our commission arriving at Madrid, namely, that this court would not acknowledge our rights either as to limits or the navigation of the Mississippi.

Under the then circumstances of European politicks, our situation became from that moment embarrassing. Two lines of conduct presented themselves to our view; the first, to intrench ourselves behind the instructions we had received from you, and pursue the negotiation; the second, to temporize in order to admit of (what we then counted on as morally certain) the receiving further advices from you after you had become acquainted with the changes which had taken place in the political relations of this country posterior to your original instructions being given.

It would be impossible to comprehend within the space of

a letter, and perhaps imprudent in the present situation of even the surest conveyances, to commit to one all the circumstances of the moment which came to our knowledge, all the various considerations which presented themselves to our mind at that time, and which weighed with us in determining the line to pursue. One of the principal, however, and in which the event has shown that we were mistaken, was the certainty which we felt that we should receive further instructions from you immediately on your being informed that Spain and England had got into the same scale, and were joined to the general league against France. This situation of affairs was so different from that which existed at the time of your instructions being formed, or even at the time of your last letter to us being written, that we could not doubt you would do us the honour to write to us, if it were only to confirm the original instructions, which could not but be considered as having occasion of it after so great a change.

As we were then situated, it appeared to us that the pursuing the first line could do no possible good, and might do much harm, whilst the second, if it did no good, at least avoided all harm, except that of delay, which we then supposed would be short. We therefore determined to adopt it, and give time for receiving further instructions from you; and in the mean while to avoid whatever might tend to excite any kind of alarm in this court with respect to the United States, at the time they were forming their arrangements with England against a common enemy, and during which the greater their apprehensions of us the more they would be likely to enter into arrangements which both Spain and the United States might have cause to repent of when too late.

This leading principle has directed us in all the steps we have taken; and if it has induced us to hold a less expressive language than you may have wished and expected—if to be less bold and decisive in the manner in which we have conducted ourselves, we hope you will take into consideration the position of those who find themselves acting in so critical times at so great a distance from their government, at so great intervals without hearing from them, and under so perfect an ignorance of their intentions and real situation with respect to the leading and domineering power of Europe.

After remaining some time in the manner above mentioned, and being fully convinced that the business of our joint commission could not be accomplished under existing circumstances, we took the liberty, in our letter of June 6th, of indicating to you our sentiments with respect to it. The measure which then appeared to us most for the honour and interest

of the United States was to put an end to the joint and express commission in such a manner as to avoid alarm here, and at the same time to leave the door constantly open to a resumption of the negotiation at the moment any favourable contingency might occur. We still remain of the same opinion, and we should take the liberty of going more fully into it at present if we did not flatter ourselves that our precedent letter will have rendered it useless, at least as far as our opinion may be considered worthy of attention.

For some time yet no particular circumstance took place to induce us to change the line we had adopted. Still in proportion as the time elapsed without our hearing from you, the greater the presumption became that we had been mistaken in counting on it as above mentioned. From the delay and miscarriage which sometimes take place in letter conveyance across the Atlantick, it was possible, however, you might have written without our having the letters; and therefore our uncertainty and anxiety still continued.

During the residence of the court at Madrid previous to their setting out for St. Ildefonso, some circumstances induced us to believe that there was less union between the two courts than it was first imagined there would be, and that our coming forward might be less prejudicial under the then circumstances than those which existed at the opening of the conferences. We determined, therefore, to bring forward the discussion of our business, not as the measure which appeared to us the best, but as not thinking ourselves authorized, after so long a silence from you, to delay it longer. Of this we did ourselves the honour to inform you in our letter of August 15th on setting out to follow the court to St. Ildefonso.

On our arrival there we proposed to M. de Gardoqui to commence the business by each party stating their respective claims, and communicating them to each other conformably to usage in similar cases, and particularly to what was practised by the French and English commissaries in their conferences for setting limits in America. This was declined by M. de Gardoqui in a manner which showed how little ground there was for negotiating on that subject with him. Under ordinary circumstances we should have been justifiable in there terminating our joint commission; but in the critical situation of European affairs we continued to think it our duty not to do it without your special orders. And from a part of your letter of July 12th, this manner of our viewing that point seems conformable to your intentions.

As we had determined, however, to bring on the discus-

sion, so we did not think we ought to be prevented from it merely by M. de Gardoqui's refusing to adopt the proper form. Accordingly, we prepared a memorial, stating the rights of the United States to limits and the navigation of the Mississippi, which we purposed presenting to him as the basis of discussion.

During this time accounts were received from England, and confirmed by different ways, that the United States and that country were engaged in close altercation, and probably on the eve of hostilities. Our only information from you, posterior to your letter of November 3, 1792, was a circular enclosing the President's proclamation. We were therefore delivered up absolutely to vague conjecture under these circumstances, but with presumption of the account from England being true. The English ambassador came to St. Ildefonso, and from several circumstances it was seen evidently that his business was at that moment of an important and pressing nature. It was possible that England, having determined to be the aggressor in a war with the United States, might be endeavouring to prevail on Spain to come into it. It was possible Spain might be then hesitating on the subject. It appeared to us advisable therefore to suspend again the measure we were about to take until the uncertainty should be removed.

Things remained in this situation when we learned that a person had arrived at Cadiz with letters for us from government. The court went to the Escorial about the same time; and our letter of September the 29th will have informed you of our meeting there, and receiving the despatches by Mr. Blake.

These despatches showed us that you had expected that the change of affairs in Europe, after your instructions were founded, should have made no change in our prosecuting the negotiation; that you wished it to be pushed so as that we might be able to give you, by the return of Mr. Blake, some certain opinion of what we believe would be the issue; and that he should leave Madrid by the middle of October. Another object of the despatches, also, was to remove the impressions which it was apprehended the agents of this court had given with respect to the conduct of the United States; to ascertain whether it were really their intention to interfere in favour of the Indians; and to prepare them to meet with a just eye, the measures which the United States might find it necessary to take with respect to those Indians.

We had therefore to regret that our view of the subject in the commencement of the business had induced us to have

adopted the line we did, in order to give time for further instructions; and the more so as we had foreseen that our situation here under that commission, for various reasons with which it is useless at present to trouble you, would be far from agreeable.

As matters stood, however, it was evidently impossible that by the middle of October, the time at which Mr. Blake was to set out, any thing could be done in the general negotiation so as to give you more certain information with respect to it than what had been contained in our first letters, and which we hoped must, some of them at least, have at length got to your hands, although we had the mortification to find they had not done so at the time of Mr. Blake's departure. We determined, therefore, not to clog the communications on Indian affairs with the general negotiation, as it would certainly delay our answer from this court, but to endeavour to ascertain their ideas with respect to those affairs in the shortest time possible; to despatch Mr. Blake therewith; and immediately afterwards to bring forward the discussion of the general business without further regard to our own ideas, after being informed of yours; although we still remain convinced our rights would be refused.

It should be observed, also, that the belief of the United States being at the eve of war with Great Britain still remained in all its force after the arrival of Mr. Blake. Accounts continued to be received here both from England and Holland to that effect. As they were grounded on the supposed situation of affairs in America, later than Mr. Blake's departure, and as by him we received from you no indication of what would probably be the sentiments of America in certain cases, and particularly with respect to the conduct of the belligerent powers opposed to the principles of the President's proclamation; nor any information of what had passed between the American and British governments with respect to their prizes carried into our ports, we were as much at conjecture after as before the receipt of the despatches by Mr. Blake. The assiduity of the English ambassador continued; his departure from hence was delayed far beyond his determination; and every circumstance indicated the pressure of his business.

Under these circumstances we brought forward the subject of the communications of the Spanish commissaries in a verbal conference with M. de Gardoqui; and he promised us immediately that all doubts as to the interference of Spain should be removed, and without delay. As from the conference he understood clearly what kind of an answer would

be expected, we thought it best to avoid as much as possible in our first letter to him, grounded thereon, the appearance of dictating it. Our letter of October 22, will have informed you that before M. de Gardoqui gave us the promised answer, and as he informed us at the very moment he was about to do it, the duke de la Alcudia determined to take that subject into his hands.

Since then several letters have passed between that minister and us, of which we do ourselves the honour to forward herein copies enclosed, as well as those to M. de Gardoqui, according to the list annexed. They will show you that his first answer being absolutely different from what M. de Gardoqui had promised us, and evasive of the point in question, we wrote to ask for one more explicit; that the correspondence which ensued thereon had induced us to lay the basis of the general discussion with M. de Gardoqui, by presenting him a memorial on limits and navigation (in which we adhered to the substance, and as far as we could to the expressions, of your report on those subjects) and also to enter on the subject of limits with the duke de la Alcudia, as he had placed the settlement of Indian affairs on that point, and given hopes that there should be no delay in treating of it.

The answer which we shall receive from him to our last on that subject will show whether this be really the case; and we hope will indicate more clearly than we know at present what is to be expected from this court under the circumstances of the present moment. We shall despatch Mr. Blake with it as soon as it is received, and in the mean time shall do whatever may depend on us to hasten it, so that there may be the least possible added to the delay of his departure, which has been now so much extended beyond our first intention announced to you in our letter of October 22.

We do not think ourselves authorized to give you ground to expect that in this answer he will come forward with candour, and acknowledge the rights of the United States. We have from the beginning had sufficient proofs that this court would not be induced thereto by the mere force of argument; and if they should do it before force of another kind be used, it will be only because they may begin to consider their situation in other respects such as that our friendship would be worth purchasing at that price.

The present moment is pregnant with great events, and may produce great changes in the situation of this and the other countries of Europe with whom the United States are most concerned. We still think, therefore, they should wait

for events which it is not in their power to control. The distrust of this country towards England has certainly risen already to a very considerable height; and their relative situation is such that good or bad fortune in their joint efforts seem equally calculated to augment it. Their getting possession of Toulon, and their being forced to fly from it, have alike augmented the dissatisfaction of the two powers with each other; and consequently the distrust of the weaker one. What is taking and will take place in St. Domingo, and the other parts of the East and West Indies, will unavoidably also become food for jealousy and discord. It should be observed, however, that the danger of this country from France increases also with time; and that this circumstance may prevent their showing too strong signs of displeasure with respect to Great Britain, and may even force them to conceal it altogether, so long as they may hope for aid and protection from them. The evacuation of Toulon leaves so great a disposable force in the hands of the French, that if, as it is probable, they should judge proper to employ it in Roussillon, it will be difficult to calculate the effect it might have.

The present situation, then, of this country with respect to England and France, is distrust of the one, and danger from the other. At a time when it would seem they had no naval enemy in the Mediterranean, and that all their efforts would be wanted to defend their frontier against land force, they have given orders for sending several ships of the line from Cadiz to join their Mediterranean fleet, and for augmenting the crews of those already under the command of Langara. Their army is much diminished by loss and sickness. The government is probably now near the end of such resources as they have been able to command, without new taxes or loans. It is uncertain how far the first could be hazarded, or the second obtained; and it is therefore thought that their intention is to apply to the resource of *vales reales*. These as yet keep above par, but that is hardly to be expected after a new emission. The plan seems to be to form the Cedula for about sixteen millions of dollars, and to begin with issuing only a part, about five or six millions.

If under these circumstances this government supposed the United States would be able to keep out of the present war, and saw them seriously commencing a navy, they might consider it proper to begin now to remove any cause of ill humour on our part. It is probable, however, they think we shall become a party in the war, and perhaps entertain doubts of the real desire of the citizens of the United States to keep out of it. Their commissaries have free scope in re-

presenting these things as they please. Our last letters were by Mr. Blake ; theirs come down to Nov. the 6th. In them they represent our government at that date as pressed both by England and France to declare for the one or the other, and pressed in a manner which it will be difficult to evade. Should this government adopt that opinion, and at the same time believe in the continuance of their union with Great Britain, they will of course consider themselves as near being opposed in war to the United States ; and therefore would see no reason for beginning at present to give up any thing to us.

We have thought it our duty by the present conveyance to say thus much of the prospect as to the general negotiation. As to Indian affairs in particular, we think, under the present circumstances, no interference is to be apprehended from this court ; and that the United States may, without regard thereto, take such measures on those subjects as they may judge proper, although the letter of the duke is not absolutely conclusive during the uncertainty of the limits. This government might, and probably would, aid them in a clandestine way, whether we be the aggressors or not. But we cannot suppose they would risk their peace with the United States by taking an active part, if there were no other cause of war between them.

We think it our duty to add by this conveyance the substance of a conversation which we had some time ago with M. de Gardoqui, whilst speaking with him on Indian affairs. To the general assurances which he gave us of the desire of the king his master to cultivate the friendship of the United States (and to which the persisting to withhold from us our manifest rights was a contradiction) he added, for the first time, that his majesty, as a proof of these dispositions, desired to form with them an alliance offensive and defensive, or at least defensive. He expressed his regret that we had not powers adequate thereto, and desired we would communicate to the President this desire of his majesty. He would not agree, however, to communicate it to us in writing, saying that there were many things which men of honour could say to each other, but which it would be imprudent to express by writing, and particularly to convey across the sea in such times as these. We must add, however, that experience has convinced us that M. de Gardoqui sometimes forgets his verbal assurances, or interprets them so differently from what we understood them as to make them very different things.

We observed to him, without being acquainted with the sentiments of the President as to transatlantick alliances, we

could venture to say that he set the highest price on the friendship of his catholick majesty, and that we conceived he had in the case in question given a convincing proof of it; that it appeared to us that the surest and best ground for an alliance with the United States was to place it in the affections of all their citizens; and that the most certain means of doing this would be to begin by restoring what justly belonged to them. He said the settlement of disputed rights and the establishing an alliance ought to go hand in hand, and would aid each other. We think it useless at this moment to add any thing further on that subject, leaving you to make what use you may judge proper of so informal an overture.

The letter which you sent to col. Humphreys for us, by Mr. Cutting, is still at Lisbon; no proper conveyance having presented itself. As your letters by Mr. Blake alluded to none later than Nov. 3, 1792, and as Mr. Cutting left America before Mr. Blake, we suppose the letter he had must be a copy of the last you mentioned. It will therefore remain at Lisbon, unless some confidential conveyance should be found according to your instructions to col. Humphreys thereon.

*Extract of a Letter from Mr. Short to the Secretary of State.  
Madrid, January 9, 1794.*

THE last accounts left lord Hood at the Hieres Islands. Admiral Langara is arrived with his fleet at Carthagená. There is no doubt that much ill blood is fermenting between them; and from the nature of things it could not be otherwise. The publick of Madrid are in an ill humour, also, on the subject. They say that Spain is duped by England; and many boast their foresight in having foreseen it from the beginning. These things get to the ears of ministry; but under present circumstances they can produce little effect. It is said and believed here that the English refused to receive on board of their fleet the inhabitants of Toulon who wished to fly, and that the Spanish fleet was therefore encumbered with them all, whilst lord Hood retains the vessels which were brought off. It is certain that Langara has landed several thousands of those refugees at Carthagená, who are objects of the most perfect nakedness and distress.

Under the circumstances of the present moment it is not extraordinary that frequent and long councils are held by the king out of the ordinary hours; but what excites atten-

tion is the order mentioned in our letter of the 7th for reinforcing their fleet in the Mediterranean. I can add nothing further respecting it as yet. Whatever may be the distrust of this country, which is unquestionably great, their present pressing and imminent danger from France is greater, and must keep them yet within the embraces of England. If they had now the road to go over again, they would no doubt make still greater efforts to keep out of the war, or at least have avoided binding themselves in the manner they have done to carry it on during the will of Great Britain. I have full evidence of this from a member of the council. The English ambassador is still here, but it is believed will set out in a few days. He is evidently much less in favour than formerly; but in the present situation of things he will probably do more by other means than by favour. The nature of his business, however, since his being stopped here in the manner I mentioned, or the prospect of his success in it, is not known; and you will probably learn it with certainty from the communications to the British parliament sooner than by any other way equally to be relied on.

I will add here nothing to what is contained in our letter of the 7th, as to the internal situation of this country. You will not think it surprising that they should begin now to be in want of extraordinary resources. It is much more so that they should have been able to do without them so long, and keep up their credit as well as they have done, seeing the circumstances in which they were before the war begun. The amount of voluntary offers, like every thing else here, is kept a mystery, viz. the amount actually received. I have heard it estimated, including that of America, by some at between three and four millions of dollars, and by others at thirty. This shows that it is not known with any degree of certainty worthy of attention. From their American possessions they have been immense on paper, and realized in as great a proportion probably as those made here, but the amount as uncertain.

The state of probation of this country which I formerly announced to you, you will see is not [at] an end, and their situation at this moment as critical as it has ever been. Supposing their credit to decline by the issuing of *vales reales* in such a manner as that they should begin a rapid depreciation, and the French troops arriving from Toulon and breaking into Catalonia, their position would be truly alarming. These cases are not certain, but still they are supposable cases, notwithstanding the resources which government have hitherto found, and notwithstanding Catalonia is one of the most populous and warlike provinces of Spain.

England and Spain continued longer the plan, at least ostensibly, of restoring the dethroned family. Spain was probably in earnest, and it would seem had been persuaded that England was also. What took place at Toulon, during their possession and at the time of abandoning it, may have convinced them of the contrary; but if they were convinced now, it is hard to say how they could extricate themselves from their present situation. Whatever they may think in other respects, they must probably see now that contending by arms for Louis xvii, is not rendering him any service more than the first efforts of the league did to his father, whose fate impartial observers will attribute to those who pretended to serve him.

It remains to be seen now whether England and Spain will persist in this quarter in that line. As far as we can judge here, England seems to have abandoned it in other quarters, viz: the East and West Indies, and to have followed there the example set by the emperor of conquering for themselves.

It may be fairly concluded, after the issue of the present campaign, that all the powers of the league actually at war would be satisfied to set down at present, and leave to France the right of modelling their own government as they pleased. If there is any exception it is England, who, from hopes of extending their East and West India possessions, may perhaps prefer a continuance of the war in that hope, to quitting the table under present circumstances. I speak here of the ministry; what the people and parliament think of it will be seen with much more certainty on their meeting. I do not comprehend among those actually at war, the empress of Russia. She has contrived to be an honorary member only of the league; and of course would have no objection to the continuance of a war which costs her nothing, and weakens the other powers.

Notwithstanding the desire, I suppose, of peace among so many of the belligerent powers, I own, however, I do not expect to see it soon. Many difficulties present themselves. One only need be mentioned, and that is, that the belligerent powers would have no confidence in the power remaining in the hands of any permanent body with whom they might treat, and of course, of the terms being observed. If they were to treat with the committee of publick safety, and to suppose that so long as the present members remain in it their engagements would be kept (which would be a great step for the belligerent powers in their state of animosity) yet they would say the committee may not exist

itself a month ; and new men may produce new measures. England, from its insular situation, and Prussia, perhaps, from its distance, except of a small part of its possessions, might expect to remain at peace notwithstanding any thing that might take place in France ; but they are held by their engagements (as far as those kind of engagements can hold) to protect others who are under the grasp of France.

It remains to be seen also how far peace would suit the present situation of France. Those who govern by means of the irresistible energy and force which a foreign pressure always gives to the power it cannot destroy, are getting into the hands of government all the valuable and disposable property in France. If it be a political truth, that property is power, the government in France is becoming every day more strong and powerful. Will they sit down quietly at home after so much heat and animosity, with all the instruments of war in their hands, whilst they see those of their foes diminishing ? Or will they, like Rome of old, find it indispensable to march to foreign conquest in order to preserve their government and tranquillity at home ? These questions are to be solved by time ; and for the present I think it may be supposed that peace will not take place so long as the powers at war can find any means of carrying it on ; and also, that the duration of those means will depend much on the measures to be taken by the ensuing parliament ; and to them I should refer you as the strongest indication of what will take place with respect to peace or war.

One thing, which seems highly probable should the war continue, is, that the efforts will be renewed to destroy the rights of neutral powers and bring them into it. Sweden and Denmark are the principal ; and as their principal influence is in their mercantile navigation, you will readily see that it is England which will be most desirous of putting them, in that respect, on a level with themselves. Spain is perhaps not far from believing that it is an advantage for them, during their war, that there should be the greatest number possible of neutral vessels. England feels, and will continue to feel, differently, so long as their aim be the carrying trade.

The ministers of Sweden and Denmark here would have it believed that their respective courts will continue to resist any efforts made to induce them to renounce their rights of neutrality ; but each expresses his persuasion that the other will not. They have evidently no reliance on each other for prosecuting their system ; and it would probably be unsafe for any other to rely on either of them. It is generally thought that their having persevered so long proceeds more

from the disposition of Russia, with respect to England, than any firmness of their own.

There have been several ebbs and flows between Russia and England. A few months ago there seemed the glimmering of a hope that Russia, from her degree of dissatisfaction on account of the tampering of England with the Porte, would really separate from her present apparent connection, and revive the former system of the armed neutrality by way of revenge. In that case, Sweden and Denmark would unquestionably have enlisted under her banners. I have this from a party concerned, and to be relied on. From the same source I learn there is less hope of it at present; that England, having acquired much influence with the Porte, and convinced Russia thereof, has said she will make use of that influence, or not, according to the conduct of Russia on the subject of neutrality; and that Russia has not yet decided whether she will subscribe, or not, to the wishes of Great Britain.

It is said also that England, making use of the present uncertainty in the conduct of Russia, is negotiating with Sweden to detach her from the principles of neutrality, and that some of the conditions will be, subsidy; advantages in commerce; and the marriage of a princess of England to the young king of Sweden.

With respect to Genoa, the answer from England, as we understand here, was, that the subject should be discussed at Toulon; and that the senate were to apply there for their answer. The scene of discussion at least must now be changed; and it is for time to show what the issue will be.

After so long a letter I will not add to it by saying any thing on the subject of a concert of measures with that republic against the Algerines, which you will be informed of from colonel Humphreys. Should peace take place in Europe, and that republic resume its tranquillity, there would be more probability of their contributing to subsidize us for cruising against the Algerines, than of Spain or any other power doing it who make an object of their own marine. You will learn from colonel Humphreys, also, what Portugal has done in the present fashionable track of convention with the belligerent powers.

We have heard here that the Spanish islands, in consequence of the war, have been opened to American vessels and productions. M. de Gardoqui has never said any thing to us upon that subject, but to assure us that it should never be done; and the Spanish islands could never have need of our provisions; adding, that what was done during the last war in that case proceeded from motives in the governours

which were well known to him, and that he would take care to prevent it in future.

I mentioned some time ago what had been mentioned to me as to Logie's interference to procure the Portugal truce being a mere private speculation, and that I should inform colonel Humphreys thereof, although I did not think it to be relied on, merely that he might make the use he pleased of it. I did not mention to you then who the person was, because my letter went by post. Since colonel Humphreys' arrival here we have brought on the same conversation with the person (lord St. Helens) and he fell into so palpable a contradiction as to the object of Portugal in the truce, with what he had formerly told me, as showed his first information was not to be relied on. His object had been to do away any opinion that it was the cabinet of England which had negotiated the truce, in order to let loose the Algerines on us, and thus abridge the advantages of our navigation during the present war.

The minister of Portugal here says, openly, that his court is determined not to pay any thing whatever for a peace with Algiers; and that they will treat only on terms of reciprocity. If so, we may count on their not obtaining it; but at the same time it would be certainly a misfortune for the United States to be obliged to count longer on so precarious a ground for the protection of their flag.

*Extract of a Letter from Mr. Short to the Secretary of State.  
Madrid, January 17, 1793.*

SIR,—I had last the honour of writing to you by colonel Humphreys, who was the bearer also of a joint letter from Mr. Carmichael and myself, and who left this place a few days ago for Lisbon. Since that time we have heard nothing further from the duke de la Alcudia, and are waiting still for his answer to our last of the 22d ultimo, in order to despatch Mr. Blake with it. During the unsettled state of the court at Madrid, preparatory to its departure for Aranjuez, it was thought, from the usage established, improper to press for that answer. The minister is now settled at the Sitio since the day before yesterday, and we therefore shall think ourselves authorized to remind him of it, if we do not very soon hear from him.

The Spanish troops continue to suffer extremely with disease; although it does not appear to be generally fatal, it disables them from service. The number of Ricardos's army in that situation at present is supposed to surpass 15,000.

It is said, that among the extraordinary resources to be applied to for present exigencies here, is that of the king's taking into his hands all sums in deposit, which are considerable in this country, and to pay an annual interest of 3 per cent. You have been already informed of an operation somewhat similar to this made with respect to the funds of different commonalties previous to the war. Although it is within a few days only that this project has been considered as determined on, it is said the ordinance is dated in October last. I have not seen it myself, however; but it is not unusual here to keep as a profound secret an ordinance after it is passed; and even to attempt to do it after it is printed.

The idea amongst the best informed is, that government have determined that 40,000,000 of dollars will be necessary for the present year; that 16,000,000 are to be raised by vales reales; and that the taking at interest the sums in deposit is to be one of the means for raising the balance; the ordinary revenue of course to be applied to the ordinary expenses.

I have the honour of enclosing a statement of the vessels which arrived at Cadiz during the last year; those from the Spanish possessions in America, with the value of the gold and silver on board, being particularized. The number of vessels which entered Barcelona is also added.

The number of American vessels which came to Cadiz you will find to be 162; and as you will no doubt have been informed of their number for the year preceding, you will be able to ascertain the progress of that valuable branch of navigation, which seems at present so much menaced by the Algerine cruisers. Among the vessels marked as English there was a considerable number from Quebec, loaded with wheat. That branch of English navigation augmented considerably during the last year, and will probably continue augmenting with the population and agriculture of Canada. The more this object becomes considerable, and attracts the attention of the British government, the more they will be disposed to render our navigation, in the southern parts of Europe, precarious by all the means in their power.

One of the effects of the present war, to Spain, has been to raise the price of all the productions of industry in a considerable degree; so great a proportion of productive labour is consumed, either in the army, or in providing for the army, as would necessarily have produced that effect to a considerable degree. Government augmented it by banishing so great a number of the French settled in this country, and who were unquestionably the most industrious of its inhabi-

tants. The sum of labour lost thereby is incalculable; as it is not only their immediate handy work, but that which their industry and capitals kept agoing among the Spaniards themselves. This loss of productive labour, and the effect produced thereby, makes less noise than the loss of a battle or of a camp; but is probably much more prejudicial, and exhausts much more the publick resources.

Independent of the cause above mentioned operating on all articles, the bad season of the last year contributes also to an increase in the price of the essential article of wheat, to a degree which is well worthy the attention of this government. This will appear from the comparative state which I have the honour of enclosing of the prices of that article in the principal markets of Spain for the months of January, 1793, and January, 1794.

One circumstance which will strike you is the great difference between the highest and lowest price of wheat on the same day, in some of the southern markets, and particularly at Cadiz; being at that place from 59 to 87 reals the fanega, in January, 1793; and from 70 to 128 in January, 1794. This has been explained to me in a manner which shows that it is a subject of much importance for the farmers and exporters of the United States, and should be made known to them, if it is not so already. It depends on the preference given by the inhabitants of Cadiz to the hard red grained wheat. This is either produced in Spain, or imported from Sicily or Africa. The soft white grained wheat, which they import from the north or from America, is considered so far inferior to it, that the rich of Cadiz make no use of it for their own particular consumption, but when the other is not to be had, or is at too high a price. This preference seems to be the effect merely of taste; as at Barcelona, on the contrary, the soft white grained wheat is preferred. Consequently, whilst the highest price of wheat is much greater at Cadiz than at Barcelona, the white soft grained commands a price at Barcelona superior to what it does at Cadiz. Proper information on this subject taken from the different ports of Spain might induce the American farmers, perhaps, to conform the kind of wheat they cultivate to the taste of the greatest number of consumers, or at least would enable the exporters to destine the kind they export to the market where it is preferred. In order to acquire this kind of information, however, so as to be fully relied on, there should be some person of confidence in each of the Spanish ports with whom the permanent agent of the United States might correspond. A continued course of observation would

be necessary, also, in order to avoid error. And if the same measure were to be adopted with respect to the principal ports of Europe, to which this article of the production of the United States is exported, very useful information probably would result. This, however, cannot be done but with time, and by a proper correspondence with persons of confidence in those ports.

*Statement of the Ships and Vessels which entered the Bay of Cadiz in the Year 1793; with the Value of Gold and Silver, coined and uncoined, brought in them from the Ports of America, for the King, and for Individuals.*

Spanish.		For the King.		For Individuals.	
		Hard Dollars.	Reals of Plate.	Hard Dolls.	Reals of Plate.
From Vera Cruz	331	5,888,506	6 & 1 qlls.	6,653,054	$\frac{1}{2}$
The Havanna	58			18,579	
Campeche	5				
Cuba	1				
Trinidad	2				
St. Domingo	1			11,325	5
New Orleans	1				
Honduras	2			13,354	
Carthage	3	207,382		934,826	4
Guaripa	22	305	1 qll.	5,275	
Cumaná	3			8,812	
Guagana	1				
Maracaybo	1			5,465	
Montevideo	34	7,159	2 & 1 oct.	1,206,917	8
Lima	6	690,857		3,540,194	
Total*	178	6,794,209	8 5 oct.	12,397,802	7 3 qlls.
Spanish from Europe	116	Total \$19,192,012 6 & 3 octs reals of plate.			
French including 8 prizes	12	* N. B. There were, besides, imported in the same vessels 96 portions of silver and 4 of gold, and also pearls for the king; and several articles of gold, silver, and precious stones, for individuals; the value of which was not expressed.			
Portuguese including 2 ships of war	92				
Swedish	42	During the same year 109 vessels sailed from Cadiz for the several ports of Spanish America.			
Danish	47				
Ragusan	4	The coasters are not included in the above statement. They are said to have much increased of late years in all the Spanish ports.			
Genoese	12				
Venetian	2	This increase is attributed, for the most part,			
Imperial	1				
Russian	1				
American	162				

Dutch including	
2 ships of war	47
English including	
29 ditto	330
Morocco	3
Total	1,049

to the peace with the Algerines. In the port of Barcelona, during the year 1793, the merchant vessels which entered amounted to 1614 ; of which Spanish, 1225 ; French, 16 ; Genoese, 46 ; Neapolitan, 4 ; Venetian, 8 ; Tuscan, 5 ; Ragusan, 22 ; Tunisian, 1 ; American, 1 ; English, 96 ; Dutch, 12 ; Swedish, 45 ; Danish, 133.

*Prices of Wheat by the Fanega in several Markets of Spain in the Month of January, of the Year 1793 ; and the Same Month of the present Year, 1794.*

N. B. Five fanegas are equal to about eight bushels English measure.

	January, 1793.	January, 1794.
Avila	33 to 35 reals the fanega	48 50
Zaragoza	47	67
Burgos	29 30	57 58
Barcelona	60	76
Corunna	52	60
Segovia	30 33	48 50
Valladolid	25 28	40
Salamanca	23 27	44
Leon	28 30	40 46
Oviedo	58 64	30
Madrid	38 43	52 60
Toledo	35 40	60
Badajoz		93
Jaen	43	70
Granada	46 52 $\frac{1}{2}$	68
Malaga		94 103
Cordova		78 82
Murcia	53 58	73 76
Sevilla	49 67	78 108
Cadiz	59 87	70 128
Valencia	63	74

*Explication of the Letter of Mr. Short, to the Secretary of State. Madrid, January 21, 1794.*

WE received yesterday a letter from the duke of Alcudia, saying that since his last of the 26th November, and 18th

December, the letters so long expected from Louisiana and the Floridas had arrived; and that by the intelligence given in them by the governours of those provinces, his majesty was satisfied that the Indians bordering on Spain and the United States had been really the aggressors against the peaceable inhabitants of Georgia, on whom they had exercised their cruelty and barbarity; and that in consequence thereof his majesty had given orders to those governours to give no assistance to the Indians; and had charged him to inform us thereof, that we might communicate it to the President as a new proof of the justice and impartiality of his majesty, and of his desire to strengthen his friendship with the United States. I have thought not a moment should be lost to give you notice of this; and therefore, without waiting for the delay of a joint letter, I send this by the several channels of this days post. No mention was made by the duke of our letter of December 22d, and therefore nothing furnished on the limits. We have written to day to ask an answer on that subject; beg leave to refer you to our joint letter of January seventh by colonel Humphreys. I have the honour to be, &c.

WM. SHORT.

P. S. I have this moment learned that the port of Genoa is so completely blocked by the British, that they refused a Genoese vessel charged with the mail established between the kings of Spain and Naples permission to sail, and that the mail was therefore taken out and sent by a Spanish frigate. This account comes by that frigate, which has arrived at Barcelona. The letters of the publick, brought by the same mail, will not be distributed until to-morrow morning, so that nothing further is as yet known here.

*Messrs. Carmichael and Short to M. de Gardoqui. St. Lorenzo, October 1, 1793.*

SIR,—Some of the communications lately made to our government by your commissioners at Philadelphia with respect to Indian affairs having appeared under a disagreeable complexion, as well as to the style as matter, the President of the United States has thought that it would be most proper to convey through us, to your court, his sentiments on those subjects. We accordingly do ourselves the honour of addressing your excellency relatively thereto.

The President has hoped that those communications were not a just expression of the temper of this court; and the

more so because, in recurring to the dispositions and proceedings of our government, nothing is to be found in them but those of peace and friendship for Spain, and of the most justifiable, moderate, and forbearing nature towards our Indian neighbours. Persuaded that this will appear from a full and true statement of facts, he has thought it proper that we should be furnished with such an one, beginning from an early period, to be communicated to your court.

At the commencement of the late war the United States laid it down as a rule of their conduct to engage the Indian tribes within their neighbourhood to remain strictly neutral. They accordingly pressed it on them, urging that it was a family quarrel with which they had nothing to do, and in which we wished [them] to take no part. And we strengthened these recommendations by doing every act of friendship and good neighbourhood in our power. With some these solicitations prevailed; but the greater part of them suffered themselves to be drawn into the war against us. They waged it in their usual cruel manner, murdering and scalping men, women, and children, indiscriminately, burning their houses, and desolating the country. They put us to vast expense, as well by the constant force we were obliged to keep up in that quarter, as by expeditions of considerable magnitude, which we were under the necessity of sending into their country from time to time.

Peace being at length concluded with England, we had it also to conclude with them. They had made war on us without the least provocation or pretence of injury. They had added greatly to the cost of war. They had insulted our feelings by their savage cruelties. They were by our arms completely subdued and humbled. Under all these circumstances, we had a right to demand substantial satisfaction and indemnification. We used that right, however, with real moderation. Their limits with us under the former government, were generally ill defined, questionable, and the frequent cause of war. Sincerely desirous of living in their peace, of cultivating it by every act of justice and friendship, and of rendering them better neighbours, by introducing among them some of the most useful arts, it was necessary to begin by a precise definition of boundary. Accordingly at the treaties held with them, our mutual boundaries were settled; and notwithstanding our just right to concessions adequate to the circumstances of the case, we required such only as were inconsiderable; and for even these, in order that we might place them in a state of perfect conciliation, we paid them a valuable consideration, and granted them annuities in

money, which have been regularly paid, and were equal to the prices for which they usually sold their lands.

Sensible as they were of the wrongs they had done, they expected to make some indemnification, and were for the most part satisfied with the mode and measure of it. In one or two instances, where a dissatisfaction was observed to remain as to the boundaries agreed on, or doubts entertained of the authority of those with whom they were agreed, the United States invited the parties to new treaties, and rectified what appeared to be susceptible of it. This was particularly the case with the Creeks. They complained of an inconvenient cession of land on their part, and by persons not duly representing their nation. They were therefore desired to appoint a proper deputation to revise their treaty, and that there might be no danger of any unfair practices, they were invited to come to the seat of the general government, and to treat with that directly. They accordingly came. A considerable proportion of what had been ceded was yielded back to them, and nothing required in lieu of it; and though they would have been better satisfied to have had the whole restored, yet they had obtained enough to satisfy them well. Their nation too would have been satisfied, for they were conscious of their aggression, and of the moderation of the indemnity with which we had been contented. But at that time came among them an adventurer of the name of Bowles, who, acting from an impulse with which we are unacquainted, flattered them with the hope of some foreign interference, which should undo what had been done, and force us to consider the naked grant of their peace as a sufficient satisfaction for their having made war on us. Of this adventurer your government rid us. But we are obliged to say, that the same practices and excitements against us were continued by the officers commanding at New Orleans and Pensacola, and by agents employed by them, and bearing their commission. We have already had the honour of communicating with your excellency on these subjects, and we were desirous to renew them as seldom as possible, because we flattered ourselves with your excellency that the final settlement of the limits would eradicate all grounds of difference on these heads. In the mean time it cannot be doubted that those officers called assemblies of the southern Indians, openly persuaded them to disavow their treaties, and the limits therein established, promised to support them with all the powers which depended on them, assured them of the protection of their sovereign, gave them arms in great quantities for the avowed purpose of committing hostilities on us,

and promised them future supplies to their utmost need. The Chickasaws, the most steady and faithful friends to the United States, have remained unshaken by these practices, so also have the Chactaws for the most part. The Cherokees have been teased into some expressions of discontent, delivered only to the Spanish governours, or their agents, while to us they have continued to speak the language of peace and friendship. One part of the nation only, settled at Chuckamogga, and mixed with banditti and outcasts from the Shawanese and other tribes, acknowledging control from none, and never in a state of peace, have readily engaged in the hostilities against us, to which they were encouraged. But what was much more important, great numbers of the Creeks, chiefly their young men, have yielded to these incitements, and have now for more than a twelve month been committing murders and desolations on our frontiers. Really desirous of living in peace with them, we have redoubled our efforts to produce the same disposition in them. We have borne with their aggressions, forbidden all returns of hostility against them, tied up the hands of our people, inasmuch that few instances of retaliation have occurred, even from our suffering citizens. We have multiplied our gratifications to them, fed them when starving, from the produce of our own fields and labour. No longer ago than the last winter, when they had no other resource against famine, and must have perished in great numbers, we carried into their country, and distributed among them, gratuitously 10,000 bushels of corn, and that too at the very time when their young men were daily committing murders on helpless women and children, on our frontiers. And though these depredations now involve more considerable parts of the nation, we are still demanding the punishment of the guilty individuals, and shall be contented with it. These acts of neighbourly kindness and support on our part have not been confined to the Creeks, though extended to them in much the greatest degree. Like wants among the Chickasaws have induced us to send to them also at first 500 bushels of corn, and afterwards 1,500 more. Our language to all the tribes of Indians has constantly been, to live in peace with one another; and in a most especial manner we have used our endeavours with those in the neighbourhood of the Spanish colonies to be peaceable towards those colonies. We have formerly had the honour of mentioning to your excellency the instructions given to the agents of the United States on these heads; and we are now authorized and instructed to declare, that such has hitherto been the candid and zealous

endeavour of our government ; that if its agents have in any instance acted in another way, it has been equally unknown and unauthorized ; and that were even probable proofs of it produced, they should be marked with the disapprobation of government.

In this state of things, in such dispositions towards Spain and towards the Indians, and in such a course of proceedings with respect to them, the late communications were made from your commissaries at Philadelphia. In their last of the 18th of June, they exhibited the several following charges against the United States, and in the most disrespectful style. We beg leave to offer to your excellency short observations on each of them (first stating that we are authorized to disavow in the most unquestionable terms the proposition said, in their letter of the 25th of May, to have been made by governour Blount to the Indian chiefs.)

The United States are charged, 1. With exciting the Chickasaws to war on the Creeks. Were this true, it would not be unjustifiable. The Creeks have now a second time commenced against us a wanton and unprovoked war, and the present one in the face of a recent treaty, and of the most friendly and charitable offers on our part. There would be nothing out of the common course of proceeding, then, for us to engage allies, if we needed any, for their punishment. But we neither need nor have sought them. The fact itself is without foundation, and we defy the world to produce a single proof of it. The declaration of the war by the Chickasaws, as we are informed, was a very sudden thing produced by the murder of some of their people by a party of Creeks, and produced so instantaneously as to give nobody time to interfere either to promote or prevent a rupture. We had, on the contrary, most particularly exhorted that nation to preserve peace, because in truth we have a most particular friendship for them. This will be evident from the copy of a message of the President to them which we do ourselves the honour to enclose to your excellency.

2. With furnishing the Chickasaws with provisions and arms. The gift of provisions was but an act of that friendship to them, when in the same distress, which had induced us to give five times as much to the less friendly nation of the Creeks. But we had given arms to them. We believe it is the practice of every white nation to give arms to the neighbouring Indians. The agents of Spain have done it abundantly, and this for purposes of avowed hostility on us, and they have been liberal in promises of further supplies. We have

given a few arms to a very friendly tribe, not to make war on Spain, but to defend themselves from the atrocities of a vastly more numerous and powerful people, and one, who, by a series of unprovoked and even unrepelled attacks on us, is obliging us to look towards war as the only means left of curbing their insolence.

3. With aiming at the occupation of a post at the Ecores Amargos. Considering the measures of this nature which have been adopted by Spain (having since the proposition made to the United States to treat with them on the subject of limits, established posts on the Walnut-hills and other places for 200 miles upwards) it would not have been wonderful if the United States had taken countervailing measures. But the truth is, they have not done it. They thought it right to give a fair chance to the negotiation going on, and to make no innovation, pending the negotiation. In this spirit they forbid, and deterred, even by military force, a large association of their citizens, under the name of the Yazoo companies, which had been formed to settle themselves at those very Walnut-hills which Spain has since occupied. And so far are our government from meditating the particular establishment so boldly charged in the letter of your commissaries that they know not what place is meant by the Ecores Amargos. This charge then is without foundation also.

4. With giving medals and marks of distinction to the Indian chiefs. This has been a custom from time immemorial. These medals are considered as complimentary things, as marks of friendship to those who come to see us, or who do us good offices, conciliatory of their good will towards us, and not designed to produce a contrary disposition towards others. They confer no power, and seem to have taken their origin in the European practice of giving medals, or other marks of friendship, to the negotiators of treaties, and other diplomatic characters, and visitors of distinction. The British government, while it prevailed in the United States, practised the giving medals, gorgets, and bracelets, to the savages invariably. Our government has continued it, and did imagine, without pretending to know, that Spain also did the same.

5. The United States are charged also with meddling with the affairs of Indians in alliance with Spain.

It is difficult to know precisely what this charge means. The Indians on our frontiers have treaties both with Spain and us. We have endeavoured to cultivate their friendship, to merit it by presents, charities, and exhortations to peace with

their neighbours, and particularly with the subjects of Spain. We have carried on some little commerce with them, merely to supply their wants. Spain too has made them presents, traded with them, kept agents among them. We hardly therefore can suppose, that this kind of meddling on our part can be seriously objected to; and we consequently pass over the complaint made of the United States having not used efficacious means to prevent it, and the other practices charged on them, which we have now shown either to have not existed, or to have been justifiable.

We have forbore to make any observations ourselves with respect to the style and expressions of the communications above mentioned, because we take it for granted that copies of them must have been forwarded by your commissaries, and are willing that they should be simply referred to the animadversion and superior judgment of your excellency.

The commissaries finally concluded with observing what your excellency will readily see could not but have been sensibly felt by our government; but on a review of the proceedings of the United States with respect to Spain, and the Indians her allies, they foresaw that our peace with Spain was very problematical in future. After the faithful picture which we have thus presented to your excellency of what those proceedings have been, the most natural inference from this conclusion of the commissaries was, that unless the United States submitted still longer without resistance to the sanguinary incursions and devastations of the Creeks, their peace with Spain would be endangered. Such an intimation, whilst it was notorious to all that the United States, who from inclination as well as interest cherish peace with all the world, had been for years exhausting all the means in their power of procuring it from the Creeks in particular, and that with a degree of forbearance and moderation of which we believe there are few examples in any country. Whilst our citizens were bleeding under the wanton hand of savage cruelty, such an intimation we sincerely hope will be considered by your government as untimely and improper, as it appears extraordinary and inexplicable to ours.

Still when considered as the sequel of the communications which had been previously made at different times, it appeared to the President of a nature not to admit of his concealing the impression it made on him, and particularly in comparing it with the constant dispositions which our government has uniformly felt and manifested towards Spain.

We trust that the measure the President has adopted of transferring this subject here, and of having it presented in its fullest extent to the immediate view of his majesty, will be considered as a new proof of the high sense which is entertained in the United States of his majesty's sentiments, of the important consideration which they annex to whatever may proceed from so magnanimous a sovereign, and of their real desire to cultivate, by all possible means, the most perfect cordiality and friendship between the two countries.

We have received extracts from the instructions of our government to their agents on the frontiers, and among the Indians, which being indicative of their dispositions as well towards Spain as our Indian neighbours, we do ourselves the honour of enclosing copies of them to your excellency, and beg you to be persuaded of the sentiments, &c.

WM. CARMICHAEL,  
W. SHORT.

*Messrs. Carmichael and Short to the Duke de la Alcludia. St. Lorenzo, Oct. 20, 1793.*

SIR,—We have the honour of addressing your excellency in consequence of our now learning from his excellency don Diego de Gardoqui, that it has been judged proper that the subject contained in our letter to him of the 1st instant, should be treated of with your excellency. If, in carrying it in the first instance to another department, we have committed an error of form, we hope your excellency will have the goodness to excuse it, as we were led to it from the instructions on that subject having been addressed to us jointly.

We beg leave to refer your excellency to our above mentioned letter, as we were informed that it had been lately transferred to the hands of your excellency, with the other papers accompanying it. We conceive nothing need be added to what was there said to show how invariable the endeavours of our government have been to bring their southern Indian neighbours to the ways of peace by all the possible means of justice, humanity and moderation; and to leave no doubt, if they should be brought to adopt other measures with respect to them, that it can proceed only from their own wanton continuance of such depredations and cruelties as to admit no hopes of their being put an end to but by force.

Under this idea we allow ourselves to hope that your excellency will consider it as corresponding to those sentiments which the United States have ever manifested towards his

catholick majesty, and particularly in this instance, to remove those ideas which have been given to our government in the manner we have mentioned of an intended interference of Spain between the United States and their Indian neighbours.

We hope your excellency will be assured of the pleasure we shall receive in being made the organ of so agreeable a communication, in whatever manner may appear proper to the superior intelligence of your excellency; and we beg leave to add assurances of the profound respect, &c.

WM. CARMICHAEL,  
W. SHORT.

*Messrs. Carmichael and Short to the Duke de la Alcudia. St. Lorenzo, Nov. 12, 1793.*

SIR,—We had the honour of addressing your excellency on the 20th of October, on the subject which we had previously expressed fully in our letter of the 1st of the same month to his excellency don Diego de Gardoqui. As yet we have not had the honour of receiving an answer of any kind.

The circumstances which gave rise to these letters are known to your excellency. Communications made by the commissaries of his majesty at Philadelphia, were understood to contain a menace of interference on the part of this country in favour of our Indian neighbours who were then committing daily acts of hostility on our frontier. As this exhibited doubts as to the dispositions of a sovereign whose friendship has been ever placed in the highest rank by the United States, the President determined to have this subject laid fully before this court. And that there might be the least possible delay on his part, he sent a special messenger from America, trusting that he would carry back such assurances as would entirely remove the doubts which had been excited. This messenger has hitherto been detained by us in that hope, and waits now only for the answer which your excellency may judge proper to give to the letters above mentioned; as has been repeated also in the audiences which one of us has had the honour to have of your excellency.

After the delay which has already taken place, with the cause of which we are unacquainted, and consequently ignorant of the time when it will cease, we hope your excellency will excuse our renewing this subject, and expressing our anxiety to despatch the messenger whose embarkation is rendered every day more precarious by the advancing season.

We forbear troubling your excellency with a repetition of the several articles contained in our precedent letters, to which we beg leave to refer. We have the honour, &c.

WM. CARMICHAEL,  
W. SHORT.

TRANSLATION.

*The Duke of Alcudia to Messrs. Carmichael and Short. St. Lorenzo, Nov. 15, 1793.*

GENTLEMEN,—Don Diego de Gardoqui has on the 18th ultimo delivered to me the memoir that you transmitted to him on the first of October last past, conveying complaints, in the name of the President of the United States, on account of some official papers as disagreeable respecting their form as their contents, that were presented by don Josef de Jaudenes and don Josef Ignacio de Viar, charges des affaires for the king at Philadelphia. To that end you have entered into an historical recapitulation of all that has occurred between the United States and the Indian nations who border on those United States and the dominions of the king, from the beginning of the late war with England to the present period, in order to prove the justice, moderation, and temper, with which they have always proceeded towards the Indians, by sacrificing in many instances their own interest, in order to preserve peace, as also to evince the inclination manifested by the United States on all occasions, and especially of late, for maintaining perfect harmony with Spain. You continue to declare how strange the tenure of the different memoirs presented on the 25th of May, and 18th of June of this year by don Josef de Jaudenes and don J. Ignacio de Viar, appeared, on which, having added some remarks, you conclude by citing that paragraph of the memoir of the 18th of June, which has been most felt by the President of the United States, and occasioned the despatch of an express in order to lay a circumstantial account of the whole transaction before the king my master. In compliance with the request of the President, I have intimated to his majesty the several points, of which you treat, and in consideration thereof his majesty has ordered me to declare to you, that he is fully convinced of the truth and good friendship with which the United States proceed, and does not doubt the sincerity of their answers, nor the dispositions they profess to cultivate by all possible means the most perfect harmony with Spain.

That the charges des affaires of his majesty have acted in

strict conformity to their orders ; however, those orders never had in view to prescribe to them a captious manner of proceeding, but, on the contrary, a faithful and frank conduct ; it is solely owing to that very frankness, that they made use of that expression of which the President complains, without having any other object in view than to conciliate the interests of both nations.

And finally, that the ideas of his majesty are to draw closer the ties of friendship connecting both nations, and by discussing in the negotiations opened upon the boundary questions concerning the property of the soil, limits, and other Indian concerns, to establish solid principles of a friendly intercourse and future tranquillity between the United States and the dominions of his majesty. I avail myself, &c.

THE DUKE OF ALCUDIA.

*Messrs. Carmichael and Short to the Duke de la Alcudia.  
Madrid, Nov. 21, 1793.*

SIR,—From the letters which we had the honour of addressing to your excellency, the 20th of October and 12th instant, referring to that which had been previously written to his excellency don Diego de Gardoqui, it resulted that grounds had been given by the Spanish agents in America for supposing that this court intended to interfere in favour of the Indians, if the United States should proceed to repel their hostile aggressions ; that the President of the United States conceived that if such were the intention of this court it must be in consequence of a misrepresentation of what had taken place between the United States and those Indians ; and if such were not the intention of this court, that it was for the interest and dignity of both countries, and conducive to that harmony which he has ever desired to cultivate, that the doubts excited should not be allowed to exist ; and finally, that in consequence of this disposition he determined to send a messenger for the purpose of removing by a full statement of the conduct of the United States towards their Indian neighbours any misrepresentation which might have been given thereof ; and in the hope of receiving assurances that it was not the intention of this court, as had been suggested by their charges des affaires, to make the peace and harmony between the two countries dependent on what might take place between the United States and the Indians.

The letter which we have had the honour of receiving from your excellency having made no particular mention of

this object of our communication, we think it our duty to renew it to your excellency. We hope under the circumstances above mentioned it will be considered proper and consonant to that frank mode of proceeding which both countries desire to see established, that it should be expressed whether it be the intention of this court to interfere in the case, rendered highly probable, of the United States being obliged to repel by force the hostile aggressions of the southern Indians. In this hope we have determined still to detain the messenger, rather than despatch him without being enabled at the same time to send such answer as your excellency may judge proper to be given to this object of the President's inquiry, trusting a very short delay will suffice.

The sentiments of his majesty towards the United States, which your excellency has done us the honour to communicate to us, we shall lose no time in transmitting, well knowing with how much pleasure they will be received, as well as whatever may indicate a desire in his majesty to strengthen the friendship between the two countries. Being firmly persuaded ourselves that nothing can more sensibly contribute to so desirable an object than a full and candid examination of the rights of the respective parties as to the objects which have hitherto been in discussion, we can assure your excellency we will leave nothing undone, on our part, to give them the most complete and satisfactory investigation.

With these assurances, &c.

WM. CARMICHAEL,  
WM. SHORT.

#### TRANSLATION.

*The Duke of Alcudia to Messrs. Carmichael and Short. St Lorenzo, November 26, 1793.*

GENTLEMEN,—After acknowledging in your communication of the 21st instant, my official letter of the 15th, you endeavour again to express, with more precision than was done in your former letters, that our charges des affaires gave occasion to the President of the United States to suspect that Spain intended to favour the Indians, in case the United States should proceed in their measures for repelling by force the hostile intentions of those nations. You repeat the information, that, in order to clear up those doubts so prejudicial to the good harmony the President is desirous of maintaining with us, he had despatched an express in hopes to receive positive information that the intentions of his majesty are not such as had been supposed to render the peace

and friendship between the United States and Spain dependent upon the events that might take place between the United States and the Indian nations. You further observe, that as respecting that point no particular mention had been made in my said official letter of the 15th, you have detained the express, wishing previously to his departure to know whether this court intends to interfere, in case (as it was highly probable) the United States should find themselves obliged to repel by force the hostile intentions of the southern Indian nations; in order that you may be enabled to transmit satisfactory information to the President?

There is no possibility to return a categorical answer at the present moment, his majesty being deprived of information of what has occurred between those nations and the United States within these seven months last past, consequently the facts are wanting that are requisite to form a just conclusion whether those nations be the aggressors with which his majesty has concluded treaties of friendship and alliance, which have been communicated to the President of the United States by our charges des affaires.

Therefore I can only declare, that his majesty will never grant protection to violences, and will cheerfully listen to any proposals that may be made on the part of the United States for preventing hostilities, by specifying each of those points on which his majesty's resolutions are to be taken, so that in the negotiation opened for that purpose all matters may finally be decided with knowledge.

I expect you will please to communicate the above frank and amicable declaration of his majesty to the President of the United States; and rest assured, &c.

THE DUKE OF ALCUDIA.

*Messrs. Carmichael and Short to the Duke de la Alcudia.  
December 7, 1793.*

SIR,—The letter which your excellency did us the honour to address us on the 26th of November has been received. In conformity to the desire of your excellency we shall transmit it to the President of the United States, as well as every other communication we shall have the honour of receiving from your excellency.

It would seem from the letter of your excellency that it had been supposed that we had not expressed ourselves as clearly in our preceding communications as in our last of the 21st of November, with respect to the explanations hoped

for by the President, as to the apprehensions of the interference of this country in favour of the Indians. Our first communication on this subject was addressed to his excellency don Diego de Gardoqui. The verbal conferences with that minister, which immediately preceded it, left no doubt as to the apprehensions excited, and the explanation expected. As soon as we learned that this subject had passed into the hands of your excellency, we did ourselves the honour of addressing your excellency on the 20th of October respecting it; and as the same verbal explanations had not taken place with your excellency, we there expressed, after referring to the contents of our letter abovementioned, our hopes that your excellency would "*remove those ideas* which have been given to our government in the manner we have mentioned, of an intended interference of Spain between the United States and their *Indian neighbours.*"

We only mention this circumstance incidentally, that there may be no doubt as to our desire of expressing, with the utmost clearness and precision, whatever communication we may have the honour of making to this court, being persuaded that it will contribute to that mutual esteem and friendship which both countries desire to cultivate that their respective ideas and wishes should be unreservedly communicated and fully understood.

It is in pursuance thereof that we think it our duty to make some observations to your excellency on the letter abovementioned, which we have had the honour of receiving.

Your excellency therein informs us, that it is not possible, at present, to give a categorical answer to our demand as to the interference of Spain, because his majesty is without information of what has passed during the last seven months between the Indian nations and the United States, consequently cannot decide whether those nations be the aggressors, with whom his majesty has treaties of friendship and alliance.

The natural inference from hence would seem to be, that there are cases in which the interference of Spain in favour of the Indians would take place. If indeed these cases be only where the Indians should not be aggressors, we might rely fully that they would never occur, from what we know of the fixed and invariable determination of the United States to be in no instance the first aggressor towards any of their Indian neighbours. Still we cannot conceal from your excellency that it appears to us that this subject admitted of a much more positive solution on the part of Spain; and we

should have hoped that the measure adopted by the President towards this court on this occasion, and the cordiality with which it was done, would have entitled him to it.

The Indians in question inhabit either within the limits of the United States, or those of the dominions of his majesty. As to the first, we take it for granted, the treaties mentioned cannot regard them, and that for the reasons which we had the honour of adducing in our letter of the 11th of August last, on the same subject, to his excellency don Diego de Gardoqui, namely, that one sovereign can have no right to treat with persons inhabiting within the territory of another, and take those persons under his sovereignty and protection; that such a system being adopted by one sovereign would give the other an unquestionable right to make use of it also; and that this would be so contrary to the established laws of nations, and lead to consequences of so destructive a nature, that we supposed that this court would be less disposed than any other to admit of such a precedent.

We do not see, therefore, from whence could arise any difficulty on the part of Spain to declare that they had no intention of interfering between the United States and the Indians, if they inhabited within the limits of the United States, in any case whatsoever; and if they inhabited within the limits of the dominions of his majesty, that they would not protect their aggressions. Such a declaration as this, on the part of this government, would have removed those impressions which the conduct of their agents in America had left; and as we are persuaded it would have been given by the United States, under similar circumstances, we had hoped they would have received it from Spain.

We must observe, also, to your excellency, that the circumstances which have given rise to the President's sending the messenger here, and which were the object of our letters, have none of them taken place within these last seven months. All that passed prior to that epoch is of course known to your excellency, and consequently it is known also whether the Indians were or were not the aggressors at that time; and whether, being attacked by the United States for what had then taken place, this court would interfere in their favour, as was given clearly to be understood by the charges des affaires of his majesty.

So far at least as credit is to be given to the statement made by our government, nothing can be wanting on this subject. We had the honour of laying before this court, by the order of the President, a full statement of what had taken place between the United States and the Indians from

a remote period until the time of the messenger being despatched; and we trust, for justice, moderation, humanity, and forbearance, it will bear fully a comparison with the conduct of any other of the civilized nations towards those Indians who inhabit within their dominions, or on their frontiers.

The object of the United States was really as is still their desire, to induce those Indians to cultivate the arts of civilization, and by thus bringing them to the ways of peace, render them more quiet, and consequently better neighbours. Had the Indians been left to themselves, and their own dispositions at that time to comply with the stipulations of the treaty of New York, and the mode of living there agreed on, there can be little doubt that object would have been attained, and the blood of the defenceless women and children which they have been since shedding on our frontiers, would have been spared.

After all that has taken place, and under present circumstances, we submit it to the superior intelligence of your excellency, whether it be not for the mutual interest of both countries, and of the Indians themselves, and whether it be not necessary under the desire which both governments have manifested, of strengthening their mutual friendship, that they should be without delay fully and unreservedly informed of the intentions of each other, with respect to a subject so much under the influence of agents employed at a distance from their government, and of neighbours who, whilst they remain in their savage state, can have no other rule of conduct but rapine and plunder.

Hitherto we have found the uncertainty which has prevailed on those subjects imputed to the limits between the two countries not being finally settled. We now do ourselves the honour of transmitting to his excellency don Diego de Gardoqui a memorial on that subject; inferring from the letter of your excellency of the 15th of November, that it is the intention of his majesty that the general negotiation should continue in the channel in which it was begun.

When your excellency shall see from it that those limits were established so long ago as the year 1763; that the acts by which they were established and confirmed are pointed out, and are lawful and indisputable, in fine, are as precise and as valid as those establishing the right of the United States to any other part of their territory; and that Spain has no title whatever to produce, no document of any kind giving even the colour of a right to the territory claimed within the limits of the United States, we trust your excellency

will think it just that that uncertainty should no longer remain.

It cannot be unknown to your excellency that the difficulties which have been raised as to the rights of the United States on the subject of limits and the navigation of the Mississippi have retarded the negotiation set on foot. After all that had passed between the two countries relative thereto, the United States were far from expecting these difficulties would have existed at the opening of the negotiation. We have hoped that time and a more accurate examination of the subject would remove them. We now present the claims of the United States on these subjects in such a form, exhibiting the titles from which they are derived, that we hope they will appear rigorously just; and in that case we rely, from the known character of his catholic majesty, and his attachment to the strictest principles of justice, that they will no longer be withheld; and that thus, all obstacles being removed, the two countries may without further delay proceed to settle other objects of mutual concern, conformably to their mutual wishes and interests. In this hope we have the honour to be, &c.

WM. CARMICHAEL,  
W. SHORT.

*Messrs. Carmichael and Short to Don Diego de Gardoqui.*  
*Madrid, Dec. 7, 1793.*

SIR,—The memorial which we have the honour of transmitting to your excellency is intended to remove that difference of opinion which we have found here, as to the limits of the United States and their right to the navigation of the Mississippi, and which has hitherto retarded the negotiation with which we have the honour to be charged.

On the one hand your excellency has regarded the claims of the United States on these subjects as unfounded, and has considered them as asking important cessions of Spain without offering any thing in return, whilst on the other, they consider themselves as claiming only their strict and indisputable right. It is evident that such a variation of sentiment on these heads, whilst it exists, must render it difficult to attain that degree of reciprocity in the negotiation they wish to carry on, which is the only permanent basis of real friendship between the two countries. The measure we have taken will leave nothing undone on our part to remove it.

It would be conformable to usage in similar cases that we should receive, in exchange from your excellency, the same precise statement of the claims of Spain in opposition to

those of the United States. And should those rights of the United States be still contested, on the supposition that those of Spain are better founded, we hope your excellency will do us the honour to communicate them to us in the same form, that we may have an opportunity of knowing what these claims are, and of giving them the same full and candid examination to which we wish those of the United States to be submitted; our object being really to ascertain the rights of both countries, so as that they may proceed with a proper understanding to settle those arrangements of convenience, which may contribute to advance their mutual interests, and strengthen their mutual friendship. \*

With the sincerest wishes for the progress of a negotiation in which we have ever informed your excellency that we considered both our countries as highly and permanently interested, and with assurances of the most profound respect we have the honour to be, &c. WM. CARMICHAEL,  
W. SHORT.

THE conferences which the commissioners plenipotentiary of the United States have hitherto had with his excellency the plenipotentiary of his catholic majesty on the subject of limits, and the navigation of the Mississippi, have not had the issue expected. It is hoped that a more perfect and full examination of the rights of the respective parties, and a comparison of the documents on which they are founded, may give a different result.

We the commissioners plenipotentiary of the United States, therefore, proceed to reduce to a more permanent form the claims of the United States, which we have heretofore stated and supported in the conferences, and to show the titles from which they are derived.

The several states now composing the United States of America were, from their first establishment, dependent on no other society of men whatever. They continued at the head of their respective governments the executive magistrate who presided over the one they had left, and thereby secured in effect a constant amity with that nation during the time of that connection. In this stage of their government the several boundaries were fixed, and particularly the southern boundary of Georgia, the one now brought into question by Spain. This boundary was fixed by the proclamation of the king of Great Britain, their chief magistrate in the year 1763, at a time when no other power pretended any claim whatever to any part of the country through which it run, all the territory on the left side of the Mississippi, except the town

of New Orleans and the island in which it is situated, having been previously yielded by the treaty of Paris, to which his catholic majesty was one of the high contracting parties.

The boundary of Georgia was thus established to begin on the Mississippi, in  $31^{\circ}$  of latitude north of the equator, and running eastwardly to the Apalachicola, thence along the said river to the mouth of the Flint, thence in a direct line to the source of St. Mary's river, and down the same to the ocean. The western boundary, originally the Pacifick ocean, was by the treaty of Paris reduced to the middle of the Mississippi.

In the late war which took place between Great Britain and the confederated states (and in the course of which we were joined by France as an ally, and by Spain and Holland as associates, having a common enemy) this boundary was the line of demarcation to the south, between the country which engaged in the war against Great Britain and that which continued under British government; Georgia having entered into the confederation, and Florida having remained in its former state. At the conclusion of hostilities Great Britain (the only power against whom the United States had been engaged in war) acknowledged their boundary, and that without extending it to the prejudice of Spain, as is pretended, but on the contrary confirming that of Georgia, in particular, as it had existed from the year 1763.

In the treaty afterwards made with Spain Great Britain ceded the two Floridas (which had been defined in the proclamation of 1763) and Minorca; and by an express article of the treaty, Spain agreed to restore, without compensation, all the territories conquered by her, and not included in the treaty, either under the head of cessions or restitutions, that is to say, all except Minorca and the Floridas.

According to this stipulation, Spain was expressly bound to have delivered up the possessions she had taken within the limits of Georgia, to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the United States, or rather Spain should have delivered them to the United States themselves, as standing *quoad hoc* in the place of Great Britain. Spain was bound also by natural right to deliver them to the United States on a still stronger ground, as the real and only proprietors of those places which she had taken possession of, without having had any cause of war with the United States, to whom they belonged, and without having declared any, but on the contrary conducting herself in other respects as a friend and associate in a war against a common enemy.

It is an established principle, that conquest gives only an inchoate right, which does not become perfect till confirmed by the treaty of peace, and by a renunciation or abandonment of the former proprietor. Had Great Britain been that former proprietor she was so far from confirming to Spain, the right to the territory of Georgia invaded by Spain, that she expressly relinquished to the United States any right that might remain in her; and afterwards completed that relinquishment by further procuring and consolidating the agreement with Spain herself to restore such territory, if comprehended within the conquests of Spain, without compensation.

It is still more palpable that a war existing between two nations, as Spain and Great Britain, can give to neither the right to seize and appropriate the territory of a third which is even neutral, much less which is an associate in the war, as the United States were with Spain.

On the conclusion of the general peace, the United States lost no time in requiring from Spain an evacuation of their territory. This has hitherto been delayed by means which need not be explained here, but which have been equally contrary to the right and to the consent of the United States.

From what has been said it results—

1. That the boundary of Georgia, now forming the southern limits of the United States, was lawfully established in the year 1763.

2. That it has been since confirmed by the only power who could at any time have had pretensions to contest it, founded on a state of war.

3. That Great Britain, by the late treaty of peace, obtained of Spain a renunciation to all pretensions within this boundary, so as to have removed every pretext for questioning the right of Great Britain to have confirmed that boundary to the United States.

4. That Spain can have no right to any claim by conquest within the limits of the United States, having never been in a state of war with them.

The right of the United States to participate in the navigation of the Mississippi, rests on two separate and distinct foundations, either of which would suffice to establish it clearly. These are—

- I. The treaties of Paris of 1763, and of 1782—3. The latter between the United States and Great Britain.

- II. The law of nature and nations.

1. The war of 1755, 1763, was carried on jointly by Great Britain and the thirteen colonies, now the United States of America, against France and Spain. By the treaty of peace

which was negotiated by our common chief magistrate, and to which, as has been observed, his catholick majesty was one of the high contracting parties, a right was secured to the subjects of Great Britain (the common designation of all those under his government) to navigate this river, in the terms following: "The navigation of the river Mississippi shall be equally free to the subjects of Great Britain and those of France, in all its breadth and extent, from its source to the sea; and especially that part of it which is between the abovementioned island of New Orleans and the right bank of this river, as well as the entrance and passage out through its mouth. It is moreover stipulated, that vessels belonging to the subjects of the one or the other nation shall not be arrested, visited, or subjected to the payment of any duty whatever."

Spain soon after received from France a cession of the island of New Orleans, and all the country she held westward of the Mississippi, subject of course to our right of navigating between that country and the island previously granted to us by France. Thus stood our right to navigate the Mississippi under the treaty of Paris.

In the course of the late war, in which the United States, Spain and France were opposed to Great Britain, Spain took possession of several posts held by the British in Florida. It is unnecessary to examine whether the possession of half a dozen posts, scattered through a country of seven or eight hundred miles extent, could be considered as the possession and conquest of that country. If it were, it gave still but an inchoate right, as was explained above, which could not be perfected but by the relinquishment of the former proprietor at the close of the war. But certainly it could not be considered as a conquest of the *river*, even against Great Britain, since the possession of the shores, to wit, of the island of New Orleans on one side, and Louisiana on the other, had undergone no change.

Still less can Spain be considered as having conquered the *river* as against the United States, with whom she was not at war. When this war commenced, we had a common right of navigation in the part of the river between Florida, the island of New Orleans, and the Western bank; and nothing which passed between Spain and Great Britain, either during the war, or at its conclusion, could lessen that right. Accordingly at the treaty of November, 1782, Great Britain confirmed the rights of the United States to the navigation of the river from its source to its mouth, and in January, 1783, completed the right of Spain to the territory of Flo-

rida by an absolute relinquishment of all her rights in it. This relinquishment could not include the navigation held by the United States in their own right, because this right existed in themselves only, and was not in Great Britain. It could only transfer that portion of right which Great Britain had retained to herself in the treaty with the United States held seven weeks before, to wit, a right of using it in common with the United States.

So that as by the treaty of 1763 the United States had obtained a common right of navigating the whole river from its source to its mouth, so by the treaty of 1782 that common right was confirmed to them by the only power who could pretend claims against them founded on a state of war. Nor has that common right been transferred to Spain either by conquest or cession.

11. Independent of the right of the United States to navigate the Mississippi as above established, they are entitled to it also by that code which is founded in natural justice, sanctioned by the usage of all civilized countries, and strengthened by the morality of sovereigns: the law of nature and nations.

There is no principle of natural justice more strongly marked than that seas are free to all men, and rivers to all their inhabitants. There is no man, savage or civilized, unbiassed by habit, who does not feel and attest this truth. Accordingly, in all tracts of country united under the same political society, we find this natural right universally acknowledged and protected by laying the navigable rivers open to all their inhabitants. When their rivers enter the limits of another society, if the right of the upper inhabitants to descend the stream be in any case obstructed, it is an abridgment of the natural right effected by some act of society. Such an abridgment will necessarily be considered, by impartial observers, with a reference to the comparative numbers of persons above and those below the limits of the two countries, the nature and extent of the river, and other attending circumstances. It is easy to see that there are cases in which such an abridgment could be only by an act of force, in a stronger society against a weaker one, which would be condemned by the judgment of mankind.

Such an act of force is in some cases supposed to be modified by the upper inhabitants having bound themselves for some valuable consideration to renounce their natural right of navigating the river. It is unnecessary to examine here how far this right be an alienable one, and what circumstances of necessity can justify such an alienation, so as to

be binding on themselves and their posterity. The examples of history leave no doubt that this will unavoidably depend in some degree on the progressive relations of times and countries.

Whenever it be pretended, however, that an alienation so contrary to natural justice has been made, it may be at least expected that the act of renunciation should be produced. Such an act would of course have been a solemn one, negotiated by those duly authorized to act in the name of the society, and therefore easy to be produced, if it existed. Until it be produced it is fair to suppose that the rights of the upper inhabitants, antecedent thereto and founded in natural justice, exist in all their integrity.

With respect to the United States, they have been so far from alienating this right that the only acts in which the subject has been mentioned as respecting them, have, as has been shown above, expressly secured and confirmed to them by treaty, the rights of navigation to which they were entitled by natural law.

So far as this sentiment of right in favour of the upper inhabitants depends on a comparison of the numbers above and below the limits, or, in other words, of those certainly to be benefited, and those supposed to be liable to injury from the freedom of the navigation, there is no case in which it can be more strongly marked than in the present. The United States hold 600,000 square miles of habitable territory on the Mississippi and its branches, and this river and its branches afford many thousands of miles of navigable waters penetrating this territory in all its parts. The inhabitable grounds of Spain below our boundary, and bordering on the river, which alone can pretend any fear of being incommoded by our use of the river, are not the thousandth part of that extent. This vast portion of the territory of the United States has no other outlet for its productions, and these productions are of the bulkiest kind. And in truth their passage down the river may not only be innocent, as to the Spanish subjects on the river, but from their nature might be made really advantageous to the commercial interests of Spain.

If we appeal to the law of nature and nations, as expressed by those writers on the subject whose authority is admitted by all, it is agreed by them, that were the river, where it passes between Florida and Louisiana, the exclusive right of Spain, still innocent passage along it is a natural right in those inhabiting its borders above. It would indeed be what those writers call an imperfect right, because the

modification of its exercise would depend in a considerable degree on the conveniency of the nation through which they are to pass. But it is still a right as real as any other right, however well defined; and were it to be refused, or to be shackled by regulations not necessary for the peace or safety of its inhabitants, so as to render its use impracticable, it would then be an injury of which they would be entitled to demand redress.

The right of the upper inhabitants to use this navigation is the counterpart to that of those possessing the shores below, and founded in the same natural relations with the soil and water; and the line at which their rights meet is to be advanced or withdrawn so as to equalize the inconveniences resulting to each party from the exercise of the right by the other. This estimate is to be fairly made, with a mutual disposition to make equal sacrifices, and the numbers on each side are to have their due weight in the estimate. Spain holds so very small a tract of habitable land on either side below our boundary, that it may in fact be considered as a strait of the sea. For though it is eighty leagues from our boundary to the mouth of the river, yet it is only here and there in spots and slips that the land rises above the level of the water in times of inundation. There are then, and ever must be, so few inhabitants on her part of the river that the freest use of its navigation may be allowed to us without inconvenience to Spain.

WM. CARMICHAEL.

Madrid, December 7, 1793.

W. SHORT.

#### TRANSLATION.

*The Duke of Alcudia to Messrs. Carmichael and Short. December 18, 1793.*

GENTLEMEN,—I have perused attentively your letter of the 7th instant, by which you acknowledge my letter directed to you on the 26th of November last past, it being an answer to yours of the 21st of the said month.

I fully accede to your opinion, that it is a matter of the greatest importance to establish between the United States and Spain the wished for good understanding and friendship, and that both governments ought without reserve to communicate their mutual sentiments, and that it will in consequence be indispensable that they be explained clearly.

However, that very principle points out to me the propriety to call your mind, that the demand made in your letter of the 21st principally purports to be informed “whe-

ther this court intends to interfere in case (as it was highly probable) the United States should find themselves obliged to repel by force the hostile aggressions of the southern Indian nations."

As, on your part, there has not been made in your communications transmitted to me, till this day, a distinction between the Indians residing within the territory of the United States and those living in his majesty's dominions, I therefore do not see why you should in the least expect it in my answer. As little do I conceive how you could doubt that in that letter those Indians alone were treated of who reside within the territory of Spain, with whom his majesty has concluded a treaty of friendship, and that in no manner can be comprehended those Indians who live within the boundaries of the United States. Therefore Spain does not propose to herself any other object than the maintaining of the legal right in the territories which belong to her, and will not take a decided part in favour of the Indians, except when justice and equity call for the same.

I am as firmly persuaded as you are, that the uncertainty that has prevailed heretofore in those Indian affairs originated from the want of fixing positively the limits between the United States and Spain; and I can assure you, that his majesty is likewise convinced of the same truth, and being desirous to give to the United States an unequivocal proof of his sincere wishes to draw closer the bonds of friendship and of good understanding between the two countries, he will not permit the discussion of the limits to be retarded, but will cause the same to be carried on with the utmost despatch.

I participate in the professions of your letter of the 7th instant, and repeat the assurances of my zeal to oblige you, remaining under prayers to God to preserve you many years.

THE DUKE OF ALCUDIA.

*Messrs. Carmichael and Short to the Duke de la Alcudia.  
Madrid, December 22, 1793.*

SIR,—The letter which your excellency did us the honour to address to us, in answer to that which we wrote on the 7th, was received by us on the 19th instant.

After the just and equitable principles which your excellency therein does us the honour to inform us are adopted by Spain with respect to the Indians, as well within the Spanish as the American limits, and which will be fully reciprocated by the United States, nothing remains to eradicate

all possibility of difference on the subject of Indian affairs but the settlement of the limits between the two countries. And it is therefore with singular pleasure that we remark the dispositions of his majesty towards the United States announced by your excellency in admitting no delay in the examination of so interesting a point.

That nothing may be left undone on our part to accelerate it, we do ourselves the honour of enclosing herein an extract of what concerned limits in particular in the memorial which we informed your excellency in our last we transmitted to his excellency don Diego de Gardoqui. The subject being thus put immediately under the inspection of your excellency, detached from the other parts of the negotiation, we hope will require little time to be fully examined and decided on its own merits.

We add nothing thereto, because nothing is wanted to establish the several points respecting the limits which we had the honour of mentioning in our last; and we therefore allow ourselves to hope that it is reserved for the administration of your excellency to do that justice to the United States which it is evident there were never any proper grounds for withholding from them; and thus remove an obstacle to those relations between our two countries in which their mutual interests and wishes combine.

With sentiments, &c.

WM. CARMICHAEL,  
W. SHORT.

#### TRANSLATION.

*Note presented to Lord Grenville. November 9, 1793.*

THE serene republick of Genoa has seen with a lively grief the violation of her territory and sovereignty by the combined squadron of their majesties, the kings of England and Spain. She hopes with so much the more confidence to obtain a just reparation, as her conduct, very far from exciting the displeasure of the allied powers, has always merited their approbation.

When the war broke out, the serene republick, on the 2d June, 1792. decreed that she should observe the most perfect neutrality between the belligerent powers. The conquest of Savoy, and of the county of Nice, by the French, in no respect changed her dispositions. She knew how to make her neutrality and territory respected, although the latter be open and defenceless, on the side of Nice. Nor had the appearance of a formidable squadron before the ports of the republick, and the fear of compromising the

fortune of a great number of her citizens whose property is in France, a greater influence on her conduct. She refused every sort of passage through her territory, and thus saved Piedmont and Lombardy, which then presented no obstacle to the invasion of the French. This firm, loyal, and generous conduct by the serene republick of Genoa, merited the most formal approbation of the court of Vienna, and the open acknowledgments of that of Turin. These two courts then gave the most positive assurances that they would always respect her neutrality.

If the serene republick has religiously observed her neutrality, at a time when she had every thing to fear from France; if she then avoided giving the least reason for discontent to the allied powers; it cannot be presumed that she would wish to provoke their resentment, since these same powers reign predominant in the Mediterranean, and since the progress of the French is no longer to be feared. Besides, the transactions alleged to justify the violation of the territory of the republick are destitute of foundation, or cannot be imputed to her government. A rapid discussion of these transactions, such as they have been presented by the minister plenipotentiary of his Britannick majesty, Mr. Drake, and by rear admiral Gell, suffice to prove that they have been led into an error by unfaithful reports. 1st. The most serious of these transactions is the seizure of a French tartane,\* who it is said "did not acknowledge the pretended national convention of France, and was under the immediate protection of his Britannick majesty." The most authentick documents prove that this tartane had sailed from Marseilles, had entered the port of Genoa with a tri-coloured flag; that the captain obtained regular licenses; that having been ordered on board of the frigate Modesty, he readily went; and therefore acknowledged the rightful jurisdiction of vessels of war over those of merchants of the same nation. It is in like manner proved, that there were found on board the tartane no other papers than letters for Travega and Navina, merchants of Genoa; that the crew remained at liberty, and that the captain was not massacred. The minister plenipotentiary, Drake, in one of the conferences which he had with deputies appointed by the serene government, pretended that the tartane could no longer be considered as French, because at the time she sailed from Marseilles *that city was under the dependence of England*. It was observed to the minister plenipotentiary,

\* A small vessel used in the Mediterranean.

that these facts were not and could not be known at Genoa, and that the conduct of the tartane must necessarily lead to her being considered as belonging to France.

2. The serene government is reproached for having permitted the *British flag to be insulted by suffering two French frigates to take measures for following an English frigate, called the Eagle, captain Inglefield, who was preparing to sail.* This charge is destitute of foundation. The serene government, jealous of causing her edict of neutrality to be observed, exacted from the French captains their word of honour, that during the space of 24 hours, they would not disturb any of the vessels which sailed out, or which should be in sight of the port. The English consul was informed of this precaution taken by the serene government. It observed the same vigilance with regard to a Sardinian frigate which had anchored in the port of Genoa.

3d. Nor is it with more foundation, that the same thing is alleged against the serene government on the subject of the *Rose cutter. She was, it is said, immediately followed, on going out of the port, by two French gun-boats, which obliged her to return. Having gone out again, three days after, she perceived the same boats, which had hidden behind a cape in the vicinity, where they watched for the favourable moment of attack.* The serene government, in conformity to its edict of neutrality, had required of the captains of the gun-boats, previous to their departure, their word of honour without restriction, and that word had always been observed with the greatest exactness. These vessels anchored at Portofino, where health guards were given them. The government could not deprive them of the asylum of the port, because Portofino is a short distance from Genoa, and behind a cape.

4th. *As to the reiterated outrages of which the crew of the Modesty have been guilty, it is said, to the individuals belonging to the marine of his Britannick majesty, as well as to several others.* These outrages have never been proved, nor have they been the subject of any claim. In the assault which took place on the 10th August, between the British subjects and some Frenchmen, the former were defended and protected by the soldiers of the republick, although they had evidently been the aggressors. So far from having suffered individuals of the English marine to be insulted, the serene government procured to them all the facility, all the succour that could be expected from a friendly nation. A considerable number of them have been received in the publick hospitals, and have there been treated with that attention which has merited the expression of their gratitude to the people of Genoa.

These facts, related with exactness, can neither warrant nor excuse the most manifest violation of the sovereignty of a state, whose neutrality has been so beneficial to the allied powers.

It is impossible to regard *as reprisals as just as indispensable*, the invasion of the port of Genoa by a squadron of his Britannick majesty's ships of war, the hostilities which sullied this port with blood, at the moment of its entering the seizure of the French vessels, and the prompt carrying of them off; the illegal visitation of the other vessels in the port of Genoa; the seizure of the *Imperious* in the gulf of Spezia, *under the cannon* of fort St. Mary; the carrying off several effects belonging to that frigate deposited in the stores, the keys of which were in the hands of commissioners of the republick.

The serene government convinced that justice presides in the councils of his Britannick majesty, hopes to obtain a reparation for the acts of violence which have so grievously affected her. The minister plenipotentiary, Drake, has acknowledged the legality of these claims, and proposed to declare, that *neither he, admiral Hood, nor rear admiral Gell had had any intention of committing the least insult on the republick, but that they had only punished the guilty*. Contenting itself with such a declaration, would be to acknowledge the complaints alleged against the republick, the nullity of which have been proved.

The serene government solicits a reparation proportioned to the object of its complaints; which it claims with so much the more confidence, as it has been jealous of meriting the good will of his Britannick majesty.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO FOREIGN INTERCOURSE. FEB. 28, 1795.

In my first communication to Congress during their present session I gave them reason to expect that "certain circumstances of our intercourse with foreign nations<sup>22</sup> would be transmitted to them. There was at that time every assurance for believing that some of the most important of our foreign affairs would have been concluded, and others considerably matured, before they should rise. But notwithstanding I have waited until this moment, it has so happen-

ed that, either from causes unknown to me, or from events which could not be controlled, I am yet unable to execute my original intention. That I may, however, fulfil the expectation given as far as the actual situation of things will in my judgment permit, I now *in confidence* lay before Congress the following general statement.

Our minister near the French Republick has urged compensation for the injuries which our commerce has sustained from captures by French cruisers, from the non-fulfillment of the contracts of the agents of that Republick with our citizens, and from the embargo at Bourdeaux. He has also pressed an allowance for the money voted by Congress for relieving the inhabitants of Saint Domingo. It affords me the highest pleasure to inform Congress that perfect harmony reigns between the two republicks; and that those claims are in a train of being discussed with candour, and of being amicably adjusted.

So much of our relation to Great Britain may depend upon the result of our late negotiations in London, that until that result shall arrive, I cannot undertake to make any communication upon this subject.

After the negotiation with Spain had been long depending, unusual and unexpected embarrassments were raised to interrupt its progress. But the commissioner of his catholick majesty near the United States having declared to the Secretary of State, that if a particular accommodation should be made in the conducting of the business, no further delay would ensue, I thought proper under all circumstances, to send to his catholick majesty an envoy extraordinary specially charged to bring to a conclusion the discussions which have been formerly announced to Congress.

The friendship of her most faithful majesty has been often manifested in checking the passage of the Algerine corsairs into the Atlantick ocean. She has also furnished occasional convoys to the vessels of the United States, even when bound to other ports than her own. We may therefore promise ourselves that as in the ordinary course of things few causes can exist for dissatisfaction between the United States and Portugal, so the temper with which accidental difficulties will be met on each side will speedily remove them.

Between the Executive of the United States and the government of the United Netherlands but little intercourse has taken place during the last year. It may be acceptable to Congress to learn that our credit in Holland is represented as standing upon the most respectable footing.

Upon the death of the late emperor of Morocco, an agent

was despatched to renew with his successor the treaty which the United States had made with him. The agent unfortunately died after he had reached Europe in the prosecution of his mission. But until lately it was impossible to determine, with any degree of probability, who of the competitors for that empire would be ultimately fixed in the supreme power. Although the measures which have been since adopted for the renewal of the treaty have been obstructed by the disturbed situation of Amsterdam, there are good grounds for presuming, as yet, upon the pacifick disposition of the emperor in fact towards the United States, and that the past miscarriage will be shortly remedied.

Congress are already acquainted with the failure of the loan attempted in Holland for the relief of our unhappy fellow citizens in Algiers. This subject, than which none deserves a more affectionate zeal, has constantly commanded my best exertions. I am happy, therefore, in being able to say that, from the last authentick accounts, the dey was disposed to treat for a peace and ransom, and that both would in all probability have been accomplished had we not been disappointed in the means. Nothing which depends upon the Executive shall be left undone for carrying into immediate effect the supplementary act of Congress.

GEO: WASHINGTON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO A TREATY WITH MOROCCO. DEC. 21, 1795.

HEREWITH I transmit for your information and consideration the original letter from the emperor of Morocco, recognizing the treaty of peace and friendship between the United States and his father the late emperor, accompanied with a translation thereof, and various documents relating to the negotiation by which the recognition was effected.

GEORGE WASHINGTON.

*Extract from Instructions from the Secretary of State to Colonel David Humphreys. March 28, 1795.*

“WITH respect to Morocco, it is proposed to obtain from the prince Muley Soliman a recognition of the treaty between the United States and his father, the former emperor. This

you will endeavour to effect, if possible, for twenty thousand dollars ; but if you shall find that it cannot be accomplished under 25,000 dollars, you are authorized to go to that amount. This negotiation you may either accomplish yourself, or by such agency as you shall deem best calculated for the purpose, according as you shall find the state of affairs in Morocco upon your arrival in Europe.”

*George Washington, President of the United States of America,  
to His Imperial Majesty the Emperor of Morocco.*

BEING desirous of establishing and cultivating peace and harmony between our nation and his imperial majesty the emperor of Morocco, I have appointed David Humphreys, one of our distinguished citizens, a commissioner plenipotentiary, giving him full power to negotiate and conclude a treaty of amity and commerce with you. And I pray you to give full credit to whatever shall be delivered to you on the part of the United States by him, and particularly when he shall assure you of our sincere desire to be in peace and friendship with you and your people. And I pray God to give you health and happiness.

Done at Philadelphia, this thirtieth day of March, one thousand seven hundred and ninety-five, and in the nineteenth year of the independence of these States.

GEORGE WASHINGTON.

By the President of the United States of America.

EDM. RANDOLPH, Secretary of State.

*To all concerned to whom these Presents shall come.*

BE IT KNOWN, That I David Humphreys, minister resident from the United States of America at the court of Lisbon, being duly empowered and instructed on the part of the President of the United States of America to negotiate and conclude a treaty of amity and commerce between the United States of America and his imperial majesty the emperor of Morocco, or to renew with his said imperial majesty Muley Soliman, the treaty established at the court of Morocco between the late emperor Side Mahomet (of glorious memory) and the United States of America, do constitute and appoint James Simpson, consul of the United States at Gibraltar, agent in the business aforesaid, (in conformity to the authority committed to me) hereby giving to him the said James Simpson all the power necessary to arrange and agree upon the same, and to certify and sign a convention there-

upon; reserving the same, nevertheless, when concluded, to be transmitted by me to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the said United States.

Given under my hand and seal, at Gibraltar, this 21st day of May, 1795. D. HUMPHREYS.

*Mr. Simpson to the Secretary of State. Rhabat, August 18, 1795.*

SIR,—I have at last the happiness to acquaint you, and request you will be pleased to inform his excellency the President, that this morning, by appointment, I attended his imperial majesty, Muley Soliman, at Meshooar, when he was pleased to say to me in publick nearly as follows: "The Americans I find are the christian nation my father who is in glory most esteemed. I am the same with them as my father was; and I trust they will be so with me. I have given orders to Sid Ben Ottman to write my answer to their letter, which will be given to you, and to tell them I am upon the same footing with them as my father was."

I did not fail to assure his majesty that the United States would, on their part, be equally emulous to maintain that peace and friendship which had so happily subsisted between them and his father. His majesty came out of the palace on horseback; and immediately after the recited conversation proceeded for Mequinez and Fez. The secretary of state, who remains a few days to give the Swedish ambassador and myself our despatches, has assured me the letter for the President shall be written immediately; and as he is also entrusted with his majesty's seal, there needs be no delay. My next will of consequence convey the original, or translation, as the conveyance may appear to be secure.

From what I have said, you will readily observe that all I shall (to appearance) obtain, will be a letter from Muley Soliman, declaratory of his being on the same terms of peace with the United States as his father was.

I am sorry that the resistance made to my solicitations of a recognition of the old treaty, in form, has been spun out to the last hour of the emperor's being here, and that I have thereby been prevented from exerting the powerful interest I had happily raised, for accomplishing in a more satisfactory manner the end of my mission; though I trust the promised letter will be expressive of what is in fact wished to be established, namely, that peace shall subsist between

Morocco and the United States, as in the time of Sidi Mahamet, which in my opinion will fully answer the purpose of keeping peace during the present reign, and of resisting any unpleasant demands, should succeeding emperors make such.

Muley Soliman's sudden departure for Fez is differently accounted for. Some allege he is gone purposely with the army to quell some disturbances which have lately happened in the vicinity of that city and Mequinez; others, that it is the consequence of the defeat the troops he sent to the southward under Muley Cadour have sustained. In my opinion both occurrences have their part in it, and that he will not for the present contest with his brother Muley Ishem the possession he certainly enjoys of the country south of the Morbeya. The garrison of Maragar have quitted that fortress as untenable, and are expected here by sea. I have the honour to be, &c.

JAMES SIMPSON.

*Mr. Simpson to the Secretary of State. Gibraltar, September 14, 1795.*

SIR,—During my residence at Tangier and Rhabat I had the honour of addressing you seven despatches, whose originals or copies I trust will have reached you, and afford his excellency the President and yourself that ample information on my proceedings there I was desirous of communicating. Since my return to this place, 5th instant, I have continued without advice of colonel Humphreys' return to Lisbon. I have sought for information, or when he may be expected, from Mr. Short, at Madrid; and if I find he cannot satisfy me, I shall no longer delay forwarding by first good opportunity which may offer for the United States, original of his imperial majesty Muley Soliman's letter for the President, which, as I mentioned to you, the colonel wished should go through his hands. In the mean time I have thought well to send with this copy a translation of that letter done with the assistance of my interpreter, which I hope will be found correct, when compared with the original. I might have satisfied myself on this particular, but that I declined imparting the contents to any other person for the present.

I had it in charge from Sidi Mahamet Ben Ottman, by his majesty's directions, to recommend the appointment of a consul for Morocco, and that vessels of the United States might be furnished with sea passes cut as those of European nations to prevent accidents. On these subjects it may be necessary to say more hereafter.

In expenditure of the publick money and articles for presents put into my charge, I hope it will be found I observed every consistent economy; and although the great length of time I was detained in the country, and unexpected obstacles I met, have not allowed me to succeed in that particular equal to my wishes, yet I have satisfaction in acquainting you, that a balance of both remain, as you will see by the ample statements which will be transmitted so soon as colonel Humphreys' return to Lisbon may enable me to determine whether it will be proper to transmit them direct, or through his hands.

Muley Soliman's retreat from Rhabat to Fez showed that he had no immediate intention to act against Benassar, and the others have taken upon themselves to command in the name of Ishem, who in fact is only a mere cypher; for he is never consulted on any occasion, nor even allowed to come to the encampments of those chiefs who command in his name. Islema has also lately promoted some disturbances at and near Tetuan; but yesterday a boat arrived with advice of part of Muley Soliman's army from Fez, having reached that neighbourhood on Friday, and that he was himself at Alcassar with the main body. Islema in consequence immediately returned to the sanctuary from whence he had come, and his adherents to their mountains. We may in consequence expect that order will again be speedily re-established in the north, and that the division of the empire I have had the honour of mentioning to you, will continue for some time to come. Whilst Soliman continues possessed of the fleet, and the only ports suitable for its protection, it is to him commercial nations will pay regard. I have the honour to be, &c.

In the Name of the Almighty God. There is no Power but that proceeding from God, the Great God.

*Soliman Ben Mehamet, Ben Abdullah, to whom God be merciful.... To the President of the United States, a Prince, and to all the States.*

Imperial  
Seal.

AFTER this we have received the letter where you mention your ambassador at Lisbon, whom you had appointed to come to us; and also we have received your said ambassador's power to your consul Simpson, who resides at Gibraltar, by which he gives him power to act in every particular as he himself was authorized to do at our imperial court, (which God have in his keeping) had he come to meet with us.

By the present you sent us, and your letter, we know you still esteem us, and that you have regard for every thing that concerns us.

Your care to preserve our friendship is very agreeable to us; and you will experience the like from us, or more, because you were faithful to our father, who is in glory.

Your messenger, whom we esteem, we have received in a manner worthy of the friendship which subsists between you and us. Also we have received the present at his hands with satisfaction; and we have mentioned to him those articles of your present which were in particular acceptable and to our liking. Continue writing letters to us at our court, that our present friendship may be made the more secure, and still increased. And we are at peace, tranquillity and friendship with you in the same manner as you were with our father, who is in glory. Peace.

Sealed at Rhabat, the second of the moon Zafar, in the year 1210.

Directed to the President of America.

I CERTIFY that the foregoing is a true copy of the translation done from the Arabick by Sidy Mahamet, Emfadal, of a letter from his imperial majesty Muley Soliman, to the President of the United States of America. Gibraltar, 14th September, 1795.

JAMES SIMPSON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE,  
RELATIVE TO INTERCOURSE WITH SPAIN. FEB. 29, 1796.

I SEND herewith the papers relating to the negotiation of the treaty with Spain to which I referred in my message of the 26th instant.

GEORGE WASHINGTON.

*From Mr. Pinckney to the Secretary of State. San Lorenzo,  
October 23, 1795.*

DEAR SIR,—I herewith send you a treaty which I have just signed conjointly with the prince de la Paz, his catholick majesty's first minister and plenipotentiary for negotiating this business. The stipulations which it contains have been formed to the best of my judgment in conformity to my instructions, and, where they left a latitude to the negotiator,

according to what I conceived the interest of our country. And I sincerely believe them to be placed on the most advantageous footing which we could at this time obtain by friendly negotiation. I enclose copies of the written correspondence which passed between the minister and myself, since my letter of the 30th of September, which covered our written negotiation to that time. These will throw some light on points in the treaty which may require it, and render it unnecessary for me to give you a long detail of the oral part of the negotiation, which was frequent, diffuse, and extensive. I however took care to bring forward the written documents herewith, which relate to the most material points. I can safely say that if the treaty be defective, it has not originated in want of assiduity. You will observe by my note of the 24th of October that I found the difficulties of such an accommodation as I could accede to were so insuperable that I had asked for my passports to return. This may illustrate the difficulties I had to encounter, and the prejudices to be removed, which it requires some knowledge of the national character fully to conceive. The peace concluded between this country and France, and the pacifick disposition (at least exteriorly) exhibited to Spain by the British cabinet, added to our critical situation with the last power, rendered this negotiation more difficult than it might otherwise have been. With respect to commercial arrangements, you will find that in the outset of the negotiation I endeavoured strenuously to urge a close connection; but finding the mind of the minister completely made up on this point, and that he advanced reasons for delaying arrangements of this nature which appeared to me to be founded on the true interests of Spain, connected with views to other nations at this juncture, I have lately ceased to insist on this subject; besides which, I believe they wish to reserve the commercial advantages they can offer as the equivalent for a guaranty of their American possessions.

I am informed, by the secretary of state here, that he has lately received advice that a party of ours having advanced to the muscle shores on the Tennessee, and threatening to take possession of an advantageous post called the Barrancas de Margot, the Spanish commandant had sent a party to occupy that post; but the minister assures me that he has sent orders to the commanding officer in the Floridas to abstain from all hostile operations.

I purpose setting out on my return in a few days. Mr. Charles Rutledge will remain here, as charge des affaires, by appointment of Mr. Short. I mentioned him to you in my

letter of the 30th September, and I now enclose an extract of that letter which concerns him, lest the first may have miscarried. I am, &c. THOMAS PINCKNEY.

*Mr. Pinckney to the Secretary of State. Madrid, July 21, 1795.*

MY DEAR SIR,—I arrived at this metropolis on the 28th of the last month; but finding that the court were still at Aranjuez, I proceeded to that place. Their residence there, however, was so short after my arrival that I could do no more than obtain an introduction to the duke de la Alcudia. I returned to Madrid on the 2d of July, where the court remained only ten days; of course every thing was in a kind of hurry and confusion unfavourable to business. I however passed through all my ceremonials, and have had two conferences with the minister, the result of which is, that they are still anxious for further delay, which is to them equivalent to a cession of our rights so long as we shall acquiesce therein, they being in possession of the object of controversy. The duke de la Alcudia received me with politeness, but at the same time informed me that he could come to no conclusion on the principal points of my mission until he should have received an answer to the propositions which he directed the Spanish charge des affaires to make to our government in America, in the months of July and August last. I told him, in reply, that Mr. Jaudenes did not conceive himself authorized to make any direct propositions to the President, so late as the month of March last, notwithstanding he had received the instructions to which the duke alluded; and therefore that it was in vain to wait for an answer to propositions which, without further instructions, could not be brought forward in a mode through which any answer could be given to them.

He seemed to doubt the possibility of M. Jaudenes not having made the proposals he had directed, and said he expected an answer thereto daily, and would immediately apprise me thereof. I then told him that I had undoubted proof of the matter being as I had stated, having in my possession a letter from M. Jaudenes to you, ascertaining the fact, with a copy of which, at his request, I promised to furnish him. I accordingly enclosed it to him in a note, the copy of which is herewith. The court leaving Madrid for San Ildefonso within a few days, I have received no answer thereto. I cannot help here lamenting, that when you inclosed to Mr. Short Mr. Jaudenes's letter containing these

proposals (however informally expressed) you had not stated the sense of our government thereon, and that consequently I must either acquiesce in a farther delay, or take upon myself to determine what will be the resolution of our government upon a question of great importance. It is true that I can deduce by inference, from the instructions heretofore given, and from reasoning upon our situation and circumstances, that the United States will not guaranty the possessions of Spain in America, and will not consent to purchase what is their right. But upon a proposition so new it would have been desirable that I should have stated to the Spanish government that I was directly instructed on this head, in case any such proposal should be made here. I conceive, however, that it is of such importance that our controversy with this government should be determined during the present war, (which I think will not be continued another campaign) and it is also so essential to our internal harmony that the President should be made acquainted with the real intentions of this court during the next session of Congress, that I mean to urge the decision as strongly as propriety and attention to my instructions on the subject will admit. Mr. Short has already informed you of the line which this court has determined to pursue toward us respecting navigation during the present war, and of the reasons which prevent them from entering into written stipulations on this subject. This line of conduct, while observed, is as favourable to us as we could expect; but as no general orders can be published on the occasion, individual cases will occasionally occur in which it will be necessary to apply to this administration for a compliance with their verbal agreement; and to these the duke promises to pay immediate attention. This took place in a joint conference which Mr. Short and I had with him, when we thought it prudent to state to him what his engagements were on that subject, to which statement he readily acquiesced, namely, that the stipulations on this subject in our treaty with France should be observed. In addition to the propositions said to have been directed to be made to our government as above stated, I find, in conversation with the duke, that another object is started, which I presume may be brought forward still farther to retard the negotiation. In our first conversation he said that our negotiation seemed so connected with their accommodation with France, that it would be best to let them proceed together. When I observed that I could not discover the connection, he did not explain himself to my comprehension; but in a joint conference with Mr. Short and myself he expressed a

wish to establish a triple alliance between France, Spain, and ourselves. He received the answer from Mr. Short, which he had previously given him with great propriety on former occasions, of a nature some what similar ; which is, in substance, that a generous and friendly conduct would ensure to both parties all the benefits of an alliance, and that the first object was to establish our rights on just principles, when objects of mutual convenience and accommodation might with propriety be resorted to. Mr. Monroe has informed you of the intentions of the French government with respect to our negotiation here. I had no conversation with them on the subject, as I conceived the business placed on as good a footing as I could desire ; and since I have been here I conclude that the French commissioners have complied with their instructions, the duke having informed me that he had certain information that our minister at Paris opposed an accommodation between Spain and France unless our rights were previously acknowledged by the former.

The repairs which so long a journey had rendered necessary for my carriage have detained me here a few days beyond the departure of the court. To-morrow, however, I set out to join them ; and will inform you of the result of my next conference by the earliest opportunity.

I have received all possible assistance and information from Mr. Short, since I have been here. He has placed in my hands all the papers of which he was possessed relative to the object of my mission. I am personally obliged to him for the readiness and friendly good will with which he has rendered me this service, and the United States are, I conceive, much indebted to him for the assiduity and ability with which he has conducted his negotiations at this court. I do not conceive that it can be necessary for me to remain here until an answer can be obtained to this letter, as it must be decided long before that time, whether this court means to proceed in their system of delay, or whether they will yield to us our rights. In either case, it will be necessary that you should have a decided answer during the ensuing session of Congress. After that answer is obtained, my present idea is, that my presence here will be unnecessary ; at all events, however, I will observe the directions contained in the cyphered part of your letter of 28th November, 1794. I would, however, submit to you the propriety of an explicit instruction to whoever may be here on the subject of alliance and guaranty, if it should not have been done previous to your receipt hereof, as from the circumstances which have already occurred, I do not expect that it will be brought be-

fore our government soon, in an official manner; and if the instructions should arrive too late to be of service, they can do no harm. I have the honour to be, &c.

THOMAS PINCKNEY.

TRANSLATION.

*Madrid, July 10, 1795.*

MONSIEUR LE DUC,—In conformity with the promise which I had the honour of making to your excellency, I herewith send the letter written by the charge des affaires of his catholic majesty to the Secretary of State of the United States of America, dated the 28th of March, 1795, by which it is unquestionable that at that time M. Jaudenes did not think himself authorized to make propositions to the President of the United States, in consequence of your excellency's instructions, although he there acknowledges the receipt of your excellency's letter of the 26th of July, which, according to the communication with which you honoured Mr. Short on the , contained his instructions on the propositions which the court of Spain thought proper to make to the executive power of the United States; and although he has likewise written to the Secretary of State of the United States that your excellency had signified, by a letter of the 21st of November, 1794, that you had nothing to add to your instructions of the said 26th of July, and of your duplicates of the 6th and 15th of August. This being the case, I beg your excellency to be pleased to inform me whether M. Jaudenes has properly understood his instructions of the 26th of July, and whether the five articles which he cites under the term of insinuations are such as his majesty thought proper to propose to the United States. I have the honour to be, &c.

THOMAS PINCKNEY.

*Mr. Pinckney to the Secretary of State. San Ildefonso, August 11, 1795.*

MY DEAR SIR,—By my letter of the 21st of July it must have appeared to you that this court was proceeding in that system of delay which it seems hitherto to have adopted, the minister having referred me in my first conferences to the answer expected to M. Jaudenes's proposals. As a means of obviating this I thought it best to put a stop to all expectations on that subject, and therefore, at the first conference I had with the duke at this place, I told him candidly that however full

my powers were (which he must have seen,) and however amicably inclined the United States were to this country, I did not think myself authorized to insert in any treaty to be formed with this country a guaranty of their possessions in America. With this declaration the duke appeared much mortified; conceiving, as was natural, that the proposals, though informally made, had been considered and rejected by our government. I then proceeded to state how ready the United States were to enter into every other friendly stipulation, and urged the arguments that occurred to me for an immediate settlement of the points in controversy. The result was, that he promised to proceed with me in our negotiations concerning the limits, &c. without the guaranty. I urged the fixing a day to proceed to the business, which he said was impossible, as he wished some further information, but promised to appoint an early day: this, however, not immediately taking place, I requested in three or four days a further conference, in which he still urged that he was not prepared, but said he would very shortly enter into the business; and from his conversation I collected that he had really been looking into the subject.

On Saturday last it was pretty generally known here that the terms of a treaty of peace were settled between this country and France. On Sunday, at a conference with the duke, on my urging our progress, he told me that our business should be very speedily settled to our satisfaction; that I might consider it perfectly in that point of light, as his majesty was determined to sacrifice something of what he considered as his right, to testify his good will to us. You, sir, have seen so much of this business as to know how to appreciate those circumstances. My present opinion is, that the new position of Spain with respect to England will induce them to come to a decision with us. You may be assured, sir, that I shall omit neither assiduity nor such arguments as I am furnished with to accelerate the determination.

Having short information of a vessel ready to sail from Bilboa I thought it advisable to give you this hasty sketch of our present position, which otherwise I should have deferred till after the conference I mean to request to-morrow, and in which I hope something more decisive will be fixed. I am, &c.

THOMAS PINCKNEY.

*Mr. Pinckney to the Secretary of State. San Ildefonso, October 1, 1795.*

DEAR SIR,—I am not favoured with any of your letters since I left England, but as the President may desire to know the progress of the negotiation with which I am charged, previous to the meeting of Congress, I herewith send you the material parts of what has passed in writing; from whence he will be able to form his own opinion of our prospects in this business. It will be unnecessary to state to you the purport of the various oral conferences I have had with the prince de la Paix (late duke of Alcudia) on this occasion, as they were preparatory to the written documents I now enclose, which may be considered as the result of those conferences, as far as they extend. I will not take up your time with conjectures of what may probably be the issue of this negotiation, for where measures are adopted from the fluctuation of occurrences, and not from system, conjectures must be wildly hazarded.

You may be assured that nothing within the scope of my abilities shall be wanting to induce a line of steady conduct towards us; and I conclude that in the course of another month, it will be decided whether this business can be concluded or not: in either event it will be unnecessary for me to remain here; and I therefore propose setting out for England in that space, unless events which I do not now foresee should require a longer residence here.

When Mr. Short leaves this court he intends, in pursuance of your authority, to appoint Mr. Charles Rutledge as charge des affaires during his absence. This young gentleman, who accompanied me here as secretary, and with whose conduct I am perfectly satisfied, is son of the chief justice of South Carolina, whom I believe you know. Mr. Short says his appointment will be only at the rate of 300*l.* per annum; I therefore beg leave to represent to you that it is impossible for him to live in a decent style on that salary, and would therefore submit the propriety of an augmentation. That sum may be sufficient for a secretary living with a minister, and the principal part of his expenses borne by him, but it is beyond question that a person cannot attend on this court, without expending far beyond that sum. I am, &c.

THOMAS PINCKNEY.

## TRANSLATION.

*San Ildefonso, July 29, 1795.*

MONSIEUR LE DUC,—In running over the “ordenanza de corso” of his majesty, dated the 1st of May, 1794, I perceive with pleasure the sentiments of justice which dictated the 11th article, which appears to me conformable with the engagements entered into by the court of Spain by concurring in the terms of armed neutrality of the last war. The spirit of this article, if I mistake not, amounts to this, that Spain, faithful to the principles she had adopted on neutral rights, was ready to act in conformity to these principles, but that prudence required a previous knowledge whether France, who had also adopted the articles of the armed neutrality, would act in the same manner. That, therefore, she permitted her vessels of war to bring into her ports neutral vessels laden with produce belonging to France, by way of precaution, and only until this point should be cleared up. But that as soon as it was ascertained that France would act in conformity to these principles towards a neutral nation, she would adopt the sentiments in conformity to her engagements, by conducting in the same manner with regard to that nation. Now, if I am not mistaken in the sense of the said article, I think I may with propriety propose to your excellency, that the king be pleased to give orders that his ships of war and privateers bring no longer into Spanish ports vessels of the United States of America laden with produce belonging to Frenchmen, seeing that your excellency has been informed of the treaty existing between the United States and France, which establishes these principles between the two nations; seeing that the government of France has given the most unequivocal assurances to ours that it will observe this treaty; and seeing that it acts in conformity to its promises. I conceive that it will not be necessary for me to detail here to your excellency all the inconveniences which result from the practice of putting merchant vessels out of their course, and carrying them to ports to which they were not destined, merely for the purpose of sending them away after they have been brought in, from the delays, waste, and inevitable expenses arising therefrom; from the bad treatment of which our citizens complain of receiving sometimes from the crews of the privateers; and above all from the spite and animosity which often follow between the individuals of two nations, between whom it is the ardent desire of the United States to cultivate the most perfect har-

mony and friendship. Not doubting but that your excellency entertains corresponding sentiments of good will towards my nation, I have no apprehension that a conduct towards us will be continued which, without being of the least advantage to the interests of the king, is very prejudicial to the United States. I pray your excellency to accept, &c.

Not knowing whether your excellency has at the Sitio a copy of our treaty with France, I take the liberty to enclose the article on the contraband of war.

## TRANSLATION.

*San Ildefonso, August 6, 1795.*

MONSIEUR LE DUC,—As in the cases not comprehended in the “ordenanza de corso” of his majesty, but which are to be determined (according to the agreement your excellency made with Mr. Short) by the principles of our treaty with France, it appears to me there will be less inconvenience to all parties in preventing judgments contrary to the treaty, than if that agreement were changed, after I take the liberty of laying before your excellency the cases as they arrive, in order that your excellency may give the proper orders. With this view I have the honour to inform you that the brigantine Maria, of Boston, laden with provisions belonging to France, was taken into the port of Santander, on the 11th of June, where she is now detained; and I request your excellency to give orders to enable her to pursue her voyage. The long detention which this vessel has already undergone with a perishable cargo will, I hope, plead my excuse with your excellency for my pressing solicitation to have a speedy decision on this affair. I also take the liberty to inform M. le duke of the circumstances relative to the American ship Liberty, of New York, according to the advices I have received, which are, that this vessel, being at Bordeaux, was freighted by an American house to carry a cargo to Bilboa, consisting partly of whale oil and of dried cod fish. The fish was taken out by another American vessel in the river, and the oil landed, and was of course laden on board the Liberty in the port; but it always continued to be American property. This vessel was met at sea eight leagues from Bilboa, and carried as a prize into that port by a Spanish privateer, who pretends to have the articles which were laden at Bordeaux condemned as good prize, in virtue of the declaration of his majesty at the commencement of the war, by which it is ordained, that French pro-

duce, and even those of foreigners landed in France, having paid the entrance duty, shall not be admitted into Spanish ports, though they should be laden on board of neutral bottoms. But I submit to the superior wisdom of your excellency whether this arret could have had in view a case like the present, in which the entry duties were not received by the French, and in which the property has not been changed. And I request your excellency to observe, also, that this determination, taken at the beginning of the war, was modified by the principles established in the 4th article of the "ordenanza," by which it is proved that in the actual circumstances, if the cargo of this vessel had been altogether of the manufacture and property of Frenchmen, and was met at sea by a Spanish privateer, she could not be condemned according to the said principles. It would, therefore, be very extraordinary if the property of the friends of Spain were condemned in a case in which her enemy's property would go free.

In submitting these cases to the inspection of your excellency, I have the most perfect confidence in the equity of the decision; and I pray you to be assured of the sentiments, &c.

#### TRANSLATION.

*From the Prince. St. Ildefonso, August 14, 1795.*

SIR,—I have communicated to the king the contents of your letters of the 29th July, and 6th current, in which you bring to view the offer made to Mr. William Short, that our ships of war and privateers should respect the free navigation of the United States in the same manner as those of France.

You solicit to have liberated some vessels detained, and the restoration of the cargoes of some others reputed contraband, according to the 15th article of our privateering ordinance.

On observing what you state, his majesty has directed proper orders to be given to the minister of marine for liberating the brigantine Maria, of Boston, and the Liberty, from Bordeaux, which you declare to be American property. That the captain of the Providence be paid for the pitch, tar and turpentine taken from him at Santander as contraband articles.

And in like manner, that restitution be made for the cargo of the American brigantine Abigail, of New York, consisting of iron, steel, boards and paints, confiscated by the marine udge of Santander.

I hope that in these dispositions you will acknowledge the sincere desire which animates his majesty to cultivate the most perfect harmony with the United States, and to cement still more the friendship subsisting between the two countries. On my part, I renew to you on this occasion, &c.

## TRANSLATION.

*San Ildefonso, August 10, 1795.*

MONSIEUR LE DUC,—As in the conference with which you honoured me on Wednesday last, I perceived that, although you have read with attention the memoir of Messrs. Short and Carmichael upon the right of the United States to the navigation of the Mississippi and to our southern limit, and admit the justice of the arguments therein contained, yet that your excellency entertained some doubts relative to a part of the pretensions of the United States, I have thought it my duty to lay before your excellency some arguments in addition, and I have endeavoured to avoid as much as possible a repetition of those which have been so well developed in said memoir, upon which I always rely as the most perfect exposition of our rights. I have the honour, &c.

T. PINCKNEY.

## TRANSLATION.

THIRTY-TWO years have elapsed since all the country on the left or eastern bank of the Mississippi, being under the legitimate dominion of the then king of England, that sovereign thought proper to regulate with precision the limits between the provinces of Georgia and of the two Floridas, which was done by his solemn proclamation published in the usual form, by which he established between them precisely the same limits which nearly twenty years after he declared to be the southerly limit of the United States, by the treaty which this same king of England concluded with them in the month of November, 1782.

By the treaty of peace between the late king of Spain and that sovereign, signed the 20th January, 1783, he ceded to his catholick majesty the two Floridas, without making any description of their limits. However, it is not difficult to prove, not only what were those limits, but also what the two contracting parties understood by that cession. It is very evident that Great Britain could not be understood to have ceded more to Spain than the two Floridas according to the limits fixed by the proclamation of 1763, and accord-

ing to what had recently been concluded by a solemn treaty to be the southerly limit of the United States. She had not been fortunate in the war which preceded that treaty, but it had not so far humiliated her as to dishonour herself by ceding to Spain a territory which two months before she declared to belong of right to the United States. But it is likewise evident that the Spanish government at that time understood the same thing in receiving, as England did in ceding, the Floridas. In order to prove this, one need only observe the dates of the relative circumstances in this business. The said proclamation of the king of England had been published more than nine years before that epoch; it was impossible, therefore, for the court of Spain to be uninformed on the subject of it; and if it were not content with the limits therein adjusted, it should have had others inserted in the treaty of 1783. Besides, the provisional articles of the treaty between the United States and England, in which this limit was acknowledged, were signed in the month of November, 1782, and immediately communicated to the court of France. Now, the close connection which at this time united the house of Bourbon, who possessed the crowns of Spain and France, was notoriously known. It is well known that these two nations were allied and confederates in the war against Great Britain. Is it therefore credible that the court of France omitted to communicate to their ally the treaty of the United States with Great Britain before the articles with Spain and the latter power had existence? And this being the case, I repeat that if she were discontented with the limits there determined for Florida, she then had an opportunity for opening negotiations in order to change them. But if it were possible to imagine that Spain, thus linked with France, and having an able negotiator upon the spot treating of peace with the same power, could have been ignorant of what was passing, a subsequent period occurred in which she still had an opportunity of making her objections to those limits, and when it was impossible that she could not have possessed all the necessary information; that is to say, all the time which had elapsed until her definitive treaty with Great Britain, which was not signed until the 3d of September, 1783, a period of two months after the treaty with America had been communicated to France, and even six months after it had been published in the United States. From these facts it follows that Spain, being informed of the limits fixed by the proclamation of 1763, and acknowledged by the treaty of the United States, was content with them; or that if she were not, that she made at-

tempts with Great Britain, which, having failed in bringing about a change of them in the treaty by which she obtained Florida, it results from every principle of justice that she remained satisfied with those limits. But it has been said that Spain had pretensions for passing the limits above mentioned by the right of conquest, her troops having during the war seized a certain portion of territory beyond that limit; but the answer to this pretension is as simple and as conclusive as that just developed, which is, that the territory conquered must have belonged, before the war, either to the United States, or to Great Britain. If it belonged to the United States, it is very clear that Spain could have no right to make conquests on a nation with whom she was not at war; and I will not for a single moment admit an idea so disrespectful to Spain as to imagine that she could pretend to be the friend of the United States, to have succoured them in the war, to have even lent them money for maintaining it, at the same time she was depriving them of their property. If this territory belonged to Great Britain, his catholic majesty obliged himself, by the sixth article of the definitive treaty with Great Britain, to deliver up without difficulty all the country and territories conquered by the arms of his majesty which were not comprehended in the same under the name of cessions or of restitutions. Now by the treaty there was under this discussion (besides the island of Minorca) only Florida, whose limits have been proved above. Therefore in both cases Spain has not the right of retaining these possessions under the name of conquests.

#### *Mississippi.*

The right of the United States to the free navigation of the Mississippi, also, depends upon the best founded and most incontestable principles. In considering them I shall avoid as much as possible a repetition of the contents of the memoir of Messrs. Short and Carmichael, as I have endeavoured to do in that which I had the honour of submitting to your excellency on the question of the limits; and this is the reason why I shall say nothing upon the argument which appears to me also to decide this discussion in favour of the United States, to wit, the natural right they have to this navigation. But I shall content myself by saying some words on their right founded upon the contracts, or their conventional right; and as to the first, but one observation presents itself which can be applied to both the questions of limits and of navigation, which is, that the contracts and the stipula-

tions relative to these two subjects were made by those who had the right of making them, when Spain had no interest therein; and that this power having acquired the territories upon which she supports her rights after they had been subjected to those conditions by the lawful proprietors, it consequently follows that she should be liable to the same conditions with regard to these territories as the ancient proprietors were; for there is nothing more clear than that those proprietors could not cede to Spain a right which they themselves had not. Let us examine then whether those ancient owners, admitting they were in actual possession, could with justice hinder the inhabitants of the United States from navigating the Mississippi. The parties were France and England, who (the one possessing the right and the other the left bank of the river) declared by the treaty of peace of 1763, that all the subjects of the British empire should have the right of navigating the Mississippi in its full extent from its source to the ocean. By this article the right of the United States (then a constituent part of the British empire) to navigate this river was acknowledged; and it may be added that they were the part of that empire for which this article must have been principally stipulated, being the part the most interested in it. Now which of those two contracting powers could now lawfully deprive us of this right? Certainly not France, who would do it in direct contravention of her treaty of 1763; France, our friend and ally, who lavished her blood and treasure for the support of our rights; France, in a word, who by the 11th article of her treaty of alliance had agreed to guaranty to the United States "*their possessions*, and the additions or conquests which their confederation may procure during the war from any of the dominions now or heretofore possessed by Great Britain in North America, the whole, as *their possessions*, shall be fixed and assured to the said United States at the moment of the cessation of their war with England."

Neither can Great Britain oppose the right of the United States to this navigation, in derogation of her treaty of 1763, and in direct contravention of her treaty with the United States in November, 1782. If, therefore, neither the one nor the other of these ancient proprietors had the right of prohibiting the United States from the navigation of this river, I must repeat here that they could not, in ceding their territory to Spain, cede also a right which did not all belong to them; and consequently that Spain does not possess that right. It may be here added, that all the arguments founded upon the knowledge Spain possessed of the existing

state of the contracts when she obtained her acquisitions, which have been above applied to the question of limits, are opposed with still greater force to her pretensions to the exclusive navigation of the Mississippi; forasmuch as she was one of the contracting parties to the treaty of peace of 1763, and as by the 2d article of the definitive treaty of peace concluded in 1783, that very treaty was expressly one of those which served as a basis and foundation to that of 1783.

## TRANSLATION.

*San Ildefonso, August 29, 1795.*

MONSIEUR LE DUC,—Having had the honour of presenting to you the project of a treaty of friendship, of limits, and of commerce, and having at the same time offered another project separately, contained in a single article, which tends to cement still more their connections of friendship between the two nations, I must remark to your excellency, that in case you agree to the latter project, it may be substituted in the treaty instead of the twelve articles, from the 5th to the 16th inclusively, which in that case would become useless; but wishing to insert this observation in the treaty, I take the liberty to inform your excellency thereof, in order to avoid the confusion which would otherwise take place.

With a hope, which I conceive to be founded in the interest of both nations, that this negotiation will speedily terminate to their mutual advantage, I have the honour to be, &c.

THOMAS PINCKNEY.

## TRANSLATION.

*From the Prince of Peace. St. Ildefonso, August 29, 1795.*

SIR,—I have observed in yours of this date, the reflection which you have made relative to the project of a treaty of friendship, limits, and commerce, which you delivered to me, and the separate article at the same time accompanying it, and coincide with you in the just observation which you have made. I renew, &c.

## TRANSLATION.

*San Ildefonso, August 30, 1795.*

MONSIEUR LE DUC,—I have the honour to address your excellency in favour of an American citizen named Denabre;

captain of the merchant ship Betsey, of Philadelphía, who writes to me from Madrid, that after having been detained upwards of two years in the pursuit of his claim against the captors of his vessels, and after having obtained a favourable sentence from the tribunal of appeal who were to judge his process in the last resort, his adversary still sought further delays by making a representation to his majesty, requesting that a greater number of judges be appointed for giving definitive judgment. If this representation has been made, I doubt not but your excellency will see it in its true light, and will act so as that justice, which I am confident his majesty desires to render, be no longer delayed.

I have the honour to be, &c. THOMAS PINCKNEY.

TRANSLATION.

*San Ildefonso, September 3, 1795.*

MONSIEUR LE DUC,—I have the honour to send you enclosed herein the copy of two petitions presented by the captain of an American vessel called the Three Friends, (Los tres Amigos) to the marine tribunal of Santander, in which the circumstances relative to his detention are detailed, and from which it appears that the captors, notwithstanding his claims, have landed the cargo of the said vessel.

As I am well assured, from what has already taken place on like occasions, that his majesty will be pleased to cause this vessel and cargo to be restored, I take the liberty of laying these facts before your excellency, not doubting but that you will have the goodness so to act as that this affair be terminated with the least possible expense to all the parties interested.

I shall only add an observation, that the circumstance of this vessel having been found in the possession of Frenchmen, cannot change the case, because she would not have been deemed good prize if she had been carried into France; and even if all the cargo belonged to Frenchmen, it would be restored here according to the last dispositions of his majesty. I have the honour to be, &c. &c.

TRANSLATION.

*San Ildefonso, September 13, 1795.*

MONSIEUR LE PRINCE,—I have the honour to inform your excellency that the owners of the American vessels the Rooksby and Greenway, which were carried into the port

of Cadiz in the year 1793, by his majesty's frigate Santa Cathalina, have sent an agent to Spain in order to receive those vessels which they supposed had been put in complete repair in the royal dock yards of his majesty. Your excellency will readily recollect all the circumstances of this affair by recurring to the letters with which you honoured Mr. Short on the 14th and 24th of October, 1794. The agent of the proprietors has had those vessels surveyed at Cadiz; and the report of the artists states, that there is still sufficient time to repair them if the work be done before the autumnal rains complete their ruin. This agent is authorized to receive the indemnifications due for the freight of the cargoes of these vessels, and for the expense of their detention. But that which presses most in this case, and on which I beg your excellency to communicate to me the king's determination, is, the giving of an order for the commencement of those repairs, as the agent is arrived here at the Sitio, where his expenses are more considerable than he can conveniently afford, and as he assures me that if the repairs are not begun immediately it will be useless to undertake them. As to what regards the freight and other demands, I have no doubt but we shall be able to arrange them amicably at the same time we regulate the principles of several other claims of the same nature. I have the honour to be, &c.

## TRANSLATION.

*San Ildefonso, September 15, 1795.*

SIR,—On observing what you state in the letter of the day before yesterday, on the solicitation of the proprietors of the American vessels the Rooksby and Greenway, detained at Cadiz since the end of 1793, I assure you, sir, that orders have long ago been given for proceeding without loss of time to the repairing and refitting of the said vessels, agreeably to what has been proposed; but without attending to the pretended reclamations, for the reasons mentioned in my letters to Mr. William Short upon this subject.

On this occasion I reiterate to you, &c.

## TRANSLATION.

*San Ildefonso, September 20, 1795.*

MONSIEUR LE PRINCE,—Having received orders from the government of the United States of America to make reclamations to the court of Spain, in consequence of the capture of several vessels belonging to their citizens, as well by the

Spanish ships of war as by their privateers, during the war which has just been terminated, it is my duty to state to your excellency the basis upon which these reclamations are founded. There is no principle more incontestable, or more generally acknowledged, than that which establishes that when two nations have the misfortune to be at war, the other nations wishing to remain at peace and not to meddle in the quarrel, ought not to meet with any molestation or bad treatment from them, but on the contrary, that they should be free to go and come, to pursue their commerce and their labour in the same manner as though the war did not exist; always suspending the plenitude of the exercise of this right in two cases only; the first of which is, not to carry either to the one or to the other of the belligerent parties warlike stores; the second to carry nothing to places besieged or blocked up. With the exception of these two conditions the war should be null, and as though it did not exist, so far as it respects neutral nations. This doctrine, founded upon reason and supported by the sentiments of the most enlightened writers, is farther established by the express approbation of the commercial nations of Europe, of whom there is scarcely one who has not adopted these principles in their late treaties, in which they declare the conduct which the contracting parties should hold in case either should be at war. But the time in which this common sentiment of the majority of the maritime nations manifested itself more clearly on the subject was when maritime conventions were established in 1780, in the first instance between the northern powers, and adopted posteriorly by a decisive plurality of the nations of Europe, and particularly by Spain.

It is this respectable code, dictated by wisdom and moderation, which, by preserving the privileges of those at peace does not infringe the rights of those at war. This code, whose equitable principles have drawn forth the assent and support of the most respectable powers of Europe, who also by their position, as well political as geographical, seemed to have but little interest in it; I mean the emperor and king of Prussia, who have solemnly adopted it: This code, in a word, uniting the sentiments of all the nations of the two hemispheres, except a single power, has placed on a certain basis which henceforward should be the law of nations on this subject. It is this code which I cite for the foundation of the proposition I have to make to your excellency, to wit: That the decisions on the captures of the American vessels which have been brought into ports belonging to his catholic majesty, by his ships of war or privateers, shall be given

according to the principles of the above mentioned convention made between the empress of Russia and the king of Denmark, in 1780, and to the principles of which Spain and the United States have since declared their intention of adhering; and that commissioners shall be named, on both sides, for determining the reimbursements that may be due on this account. I do not think that I can propose to your excellency a more convenient method for terminating all discussion on this subject than by establishing a rule formally approved of by both nations who have united in its favour so remarkable a plurality of the important European powers. A rule, moreover, conformable to the principles which his majesty has declared he would follow in the war which has just been terminated, since in the 14th article of his "ordinanza de corso," he has determined to observe the same conduct in this respect which should be held by his enemies. Now France has been held by her treaty with the United States to observe these same principles, and she has acted conformably; so that the same rule which the king has already established is precisely that which I at present claim. If the fact be as our citizens complain, that a considerable number of our vessels have been taken and carried into the ports of his majesty (particularly in the West Indies,) when they were occupied in lawful traffick only, where, after a long detention, their cargoes have been carried off by force, without the proprietors for the most part knowing whether they were condemned by a court of justice or not; if it be proved that half of the crews of some of these vessels died of the disorders incident to their captivity, those who survived abandoning their vessels and cargoes rather than face the dangers of so destructive a detention; and if, by the very sentences of the tribunals in the islands (where the sentences have been communicated to the owners) it be proved that the acts for which these cargoes have been condemned were not offences against the law of nations, I am too well convinced of his majesty's equity, and of his benevolence towards my nation, one instant to doubt that he will order proper measures to be taken for repairing the wrongs committed under colour of his authority. If, on the contrary, these facts do not exist, and should not be proved to the satisfaction of the commissioners named by the king, he will have given a proof of his love of justice, and of his friendship for the United States, which will cost but little, will put a stop to every complaint in this respect, and do away the necessity of a claim on the part of government upon each individual case; which would give an infinite deal of trouble to your excellency, and bring with

it an endless discussion. I take the liberty of adding here a single reflection, which is founded on what appears to me to be the true interests of Spain on this subject, to wit: That it is expedient for a nation, possessing the richest productions in the world, and who during a war must necessarily draw great resources from her distant possessions; for a nation whose inhabitants are not generally led by habit or perhaps by sentiment to a privateering war; that it is expedient, in a word, for the mistress of the mines of Mexico and Peru, to give the most ample latitude to the rights of neutral nations during a war. It is this sentiment, founded on justice and sound policy, which doubtless dictated the adherence of Spain to the principles of the armed neutrality proposed by Russia; and I have no suspicion that in the present case she would wish to swerve from it to do an injury to a nation led equally from interest and disposition to rank herself among her best friends. I have the honour to be, &c.

THOMAS PINCKNEY.

TRANSLATION.

*From the Prince. St. Ildefonso, Sept. 23, 1795.*

SIR.—I yesterday received yours of the 20th, relative to the orders you have received from the President of the United States for claiming indemnification for various prizes made by the ships of war and privateers of Spain, particularly in America, and soliciting the naming of persons, on both sides, informed of the cases and complaints of the proprietors, for determining them according to the principles of the neutrality adopted in the year 1780 by the northern powers of Europe and by Spain.

You accompanied the said paper with an additional one, which I did not touch upon on Sunday when I handed you the project of the treaty, expecting that this point would be provided for therein.

And in answer to both cases I can inform you, that on the same terms as have been determined the American prizes in Europe, since the neutrality of the United States with France in the present war has been known, shall be judged the prizes which may have been made in America. But this matter being very different from the system of a treaty stipulating positive regulations for the future, there is no necessity of including it therein. I renew on this occasion my sincere desires, &c. THE PRINCE OF PEACE.

## TRANSLATION.

*Notes on the Project of a Convention proposed by his Excellency the Prince of Peace. September 25, 1795.*

THE preamble of this project appears very convenient ; but there would be no impropriety in expressing the appointment of the plenipotentiary of the United States according to the forms prescribed by their constitution.

## ART. I.

ART. II. I think it would be better to insert six months, instead of one year, for the period in which the garrisons shall retire ; because six months may elapse after the signature of the treaty before the ratifications are completed ; and hence the year which Spain requires for this purpose will be obtained.

ART. III. The same period of six months may be substituted, instead of one year, as in the preceding article which corresponds with this.

ART. IV. In the ninth line of this article it appears that the word "anchura" (breadth) may be substituted for "extension."

In the 11th and 12th lines the words "solo et exclusivamente," (alone and exclusively) should be omitted ; for Spain could scarcely confide in the good faith of the United States, nor to this convention which she is about to conclude with them, if they agreed to an article which would be an infraction of another treaty previously made. Now by the treaty of peace between the United States and Great Britain, concluded in 1783, it is stipulated that the navigation of the river Mississippi shall continue free to the subjects of Great Britain and to the citizens of the United States. It appears that the following provision would have all the desired effect :

"It is nevertheless agreed, that nothing contained in this article shall be construed or interpreted to communicate the right of navigating this river to other nations or persons than to the subjects of his catholic majesty, and to the citizens of the United States." Again, this article is incomplete, and does not fulfil the object of the two parties, which is to avoid all circumstances which might become a cause of the interruption of the good harmony of the two nations ; because it does not point out the manner in which this navigation shall be exercised. It is true that the stipulations of the free navigation carries with it, as of natural consequence, that the persons and effects of the contracting nations cannot be arrested or subjected to pay any duty for the use of this navi-

gation, and that they are to enjoy all the conveniences on the borders of the river which the laws of nations permit; but it could produce no inconveniency to stipulate these points in the same article, by which means every discussion in this respect would be avoided in future. And I think it would also be the interest of his majesty, in order to do away all suspicion of contraband trade, that a place be assigned for the American vessels arriving from sea, or from the river, to put into or to touch at, instead of a more diffusive exercise of this right.

*Suspension.* Again, as it appears that the court of Spain desires to establish this convention upon the basis of justice, although at present it does not judge proper to enter into commercial arrangements with the United States, I think that upon this footing also M. le prince will agree that justice will not be complete without some addition to this article. For I take it for granted that the right of the United States to the navigation of the Mississippi and to the limits has been proved; and that it is incontestable; and I conceive this deducible from the arguments which have been brought forward on the subject on the part of the United States, having never been answered. And I am very certain that if there were reasons capable of refuting them they would not have escaped the penetration and intelligence of the minister conducting this negotiation on the part of his majesty, who would have displayed all the arguments which could be opposed with justice and energy to our pretensions. But his views are too upright to use unfounded arguments. He is also too enlightened to employ weak reasonings; and I am sincerely and fully persuaded that he had no others to produce. The right of the United States, therefore, being established, there is certainly something due to them for the suspension of that right during a period of twelve years, which has done incalculable injury to the inhabitants of the fertile countries watered by the Mississippi. Under this point of view, then, I conceive I do not demand a thing incompatible with the most rigorous justice when I make the proposition to cede to us a sufficient space of ground for establishing a *depot*, where the American vessels coming from sea may discharge their cargoes, with those arriving from the neighbouring ports on the river. Besides, Spain having actually seen and considered the reasonings and the equitable basis upon which the pretensions of the United States are founded, as soon after that examination as she was convinced of their solidity, she has said, with a frankness and respect for justice which does her great honour, "We do agree

that the navigation of the Mississippi be common to both nations;" and I am too well assured of the Spanish good faith to imagine that she wished this declaration to be illusory, without utility, and without effect. Now, by the position and singular nature of the Mississippi, its navigation cannot be exercised with advantage by the citizens of the United States without such a place for unlading their vessels as I wish to have stipulated by this convention; and I doubt not but that his majesty will agree to it, after having reflected that it is a natural consequence of what is already concluded. Nor do I think it would be well to omit this part of the article under an idea that when we agree to a thing we agree to every matter necessary for its execution, and consequently that the Americans will have the right of using the necessary accommodations on this navigation; because I consider, as the principal object of this convention, the termination of every thing that may give room for future complaints and disputes; whereas the indeterminate manner of the use of this navigation would be a fertile source of altercation, which I doubt not but M. le prince will readily co-operate with me to avoid.

Before I examine the 5th article it is necessary to remark here, that the 5th, 6th, 7th, and 8th, and after the 15th, 16th and 17th articles of the project which Mr. Pinckney had the honour of proposing, be entirely omitted without any substitute: then it appears that every stipulation on commercial relations is rejected, and that his majesty contents himself with doing what appears to him to be just, without wishing to connect more closely the bonds of friendship with the United States by means mutually convenient. Mr. Pinckney, however, cannot allow himself to think, such being the dispositions of his majesty, observing his benevolence for the United States and the position of the two nations, but that M. le prince still has some articles relative to commerce to propose. As to what regards an intimate friendship between Spain and the United States, under a political point of view, as relating particularly to those possessions of Spain in America, Mr. Pinckney does not hesitate to say, that the advantages which would result therefrom to Spain are incalculable; and as to what regards merely the benefits of the commerce, he will content himself with laying only two circumstances before his excellency proving that the commerce of the United States is not contemptible. The first is, that the inhabitants of the United States have doubled in the space of twenty years, eight of which have been employed in a war, which, having partook of the nature of a

civil war, was destructive to population, not only from the rage with which such wars are pursued, but by the emigrations which follow in such cases. Notwithstanding the population of those states, which at the commencement of the war, in 1775, was under two millions and a half of persons, at this moment amounts to near five millions of inhabitants. The other fact is, that the exports from the United States to foreign countries for the last year exceed in value the sum of thirty-two millions of dollars. A country, therefore, which offers a market consisting of five millions of persons manufacturing but little for themselves, and which exports to the value of upwards of thirty millions, principally of articles of the first necessity, cannot offer a disadvantageous commerce.

ART. v. It would seem that a part of this article contains inconveniences which should cause it to be rejected by both parties. The first principle apparently necessary to establish relative to the Indians is, that neither party should meddle in the political affairs of those inhabiting the territory within the limits of the other; and it is especially the interest of Spain to hinder such practices with the great number of Indians inhabiting her territory. But if it be stipulated by this convention—"Que nose depojara ni hechara de sus tierras à dichas naciones," (That the said Indian nations shall neither be disturbed nor driven from their lands,) and a war should take place between one of the parties and an Indian nation inhabiting the territory within its limits, that party could not repel such enemies or drive them from its lands, though they should be the aggressor, without an infraction of the treaty. The objection to this article originates only in the desire which the United States have to avoid every source of discord with Spain. There is nothing more evident than the care with which the United States have avoided a rupture under very delicate circumstances. All Europe have witnessed, and Spain ought to be convinced of the moderation and of the wisdom of their government on this score with regard to European nations; and as to the Indians, I can also with confidence assert, that our government has spared no pains in order to live upon good terms with them, and to render to them every friendly office and succour in its power; having established it as a principle never to take their lands, unless it had a title to them as a just indemnification for a war of aggression on the part of the Indians, or unless by a sale voluntarily and publicly made. I am well convinced that his majesty possesses the same sentiments of justice and benevolence for these nations; but it appears clearly that neither Spain nor the United States

should agree that any other foreign power should have the right of meddling in the discussions which might take place between them and the Indians inhabiting their territories.

The last part of this article appears also to require some ulterior explanations.

ART. VI. Agreed to.

ART. VII. To require explanation of the 10th and 11th lines.

ART. VIII. IX. X. and XI. Agreed to.

ART. XII. Here are omitted the xv. xvi. and xvii. articles of the project of Mr. Pinckney.

ART. XIII. Here are omitted the xix. xx. xxi. xxii. and xxiii. articles of Mr. Pinckney.

ART. XIV. and xv. Agreed to.

ART. XVI. Agreed to as far as the last paragraph, beginning with the words *y'los casos*, to which I am opposed; because it would render almost useless every thing contained in this and the preceding article; because it is repugnant to the system of the armed neutrality of the last war, which I conceive it is the interest of Spain as well as of the United States to support; and because it would give room for perpetual abuse and vexations. I shall put a case which will show the inconveniences of this part of the article. The United States are at war with the Algerines. If this war should not soon terminate, it is probable that the United States will have a squadron in the Mediterranean. In that case I suppose that Spain would not think it proper that the American ships of war should have the liberty of arresting those of Spain, of putting them out of their course, and of taking part of their cargoes, which they might do under pretext that they stood in need of it.

ART. XX. This article, according to the project of M. le Prince, could not be executed in the United States on account of their constitution, in which no authority exists giving them the right of causing a person to be arrested, unless sufficient testimony be produced for having him brought before the tribunals. Mr. Pinckney, therefore, would not act with good faith, were he to consent to the insertion of an article which could be executed in Spain and not in the United States; and he thinks also that it would be better to form from this article a separate convention, in which the necessary forms for having arrested and delivered up any person whomsoever, according to the constitution of the United States, shall be more detailed; and in which M. le Prince might insert the testimony and forms required by the Spanish laws for obtaining the effect desired.

M le Prince will doubtless find, on reflection, that the term "malhechores" (malefactors) is infinitely too vague, as it comprehends every sort of transgression opposed to good morals; and it is also too uncertain, because such an act as would be reputed "malheecho," (a bad or criminal action) in one country, or in one age, might not be deemed so in another. As to what regards the effects or property that may be stolen or concealed and carried into the territories of one of the parties, the following article gives a remedy, and the slaves are comprehended under these descriptions. The reason why the crime of murder is the only one mentioned in the project of Mr. Pinckney is because it is the only crime appearing to merit the vengeance of governments, which obliges them to take the trouble of pursuing the fugitives into foreign countries, because the *exile*, which is the consequence of their flight, appears to be a punishment sufficient for other crimes; and because by article xxii. they may be deprived of all the property which they may have been able unjustly to carry with them.

ART. XXII.

ART. XXIII. Mr. Pinckney having stated in a separate memoire the reasons for inserting here an article as to the captures made by the Spanish privateers during the war just terminated, has nothing further to add to this.

TRANSLATION.

*Madrid, Oct. 5, 1795.*

MONSIEUR LE PRINCE,—Your excellency, by the letter with which you honoured me on the 23d ultimo, having agreed that the capture of the vessels of the United States which shall have been made in America shall be judged according to the same principles by which the prizes made upon the Americans in Europe have been determined since the neutrality of the United States towards France has been known, there only remains for the accomplishment of the commission with which I am charged by the President of the United States on the subject, to explain what those principles are, and to bring them forth. Although it appears to me that this might be done very conveniently by an article in the treaty which I hope we shall soon terminate, as the principal object of this convention is the termination of the differences which have formerly subsisted; however, as your excellency appeared to have objections to it, I have put those details in the form of a separate convention herein enclosed; and I flatter myself that the terms in which it is conceived will be acceded to by your excellency.

## TRANSLATION.

*From the Prince. St. Lorenzo, Oct. 7, 1795.*

SIR,—In answer to yours of the 4th current in reply to mine of the 23d, you say that you suppose the difficulties pointed out therein against the insertion in the present treaty of an article relative to the captures made on the citizens of the United States during the present war would require a separate convention in the terms mentioned. But there is moreover opposed to this the same reasons as those to the insertion of the article. I must add, that as this business will require little explanation, when agreed upon, there is no need of multiplying writing for inserting it, and that it will be proper to confine ourselves to the limits of our particular agreement, for whose execution the most clear and positive orders will be communicated.

## TRANSLATION.

*St. Lorenzo, Oct. 7, 1795.*

THE Prince of Peace, in consequence of the conference with Mr. Thomas Pinckney on Friday last, on the treaty between Spain and the United States, which finally closed the said treaty, hopes that if Mr. Thomas Pinckney finds it conformable to his instructions, and to what has been agreed upon, he will sign it when convenient.

## TRANSLATION.

*Madrid, October 9, 1795.*

M. LE PRINCE,—I have had the honour of receiving the project of the treaty with the last corrections which your excellency has given it, and I have considered it with all the attention which an instrument apparently of so much importance to my country merits, and I request you to be assured that I have borne in this investigation the most convenient disposition for establishing, upon just and solid bases, a close and sincere friendship between our two nations. It is therefore with much regret that I find myself, after the most mature reflection, unable to sign this convention without its undergoing some alteration; and the principal reason is that it is not final and conclusive, but refers to ulterior negotiations, one of the principal objects of my mission, which is, to establish the manner in which the citizens of the United States are to navigate the river Mississippi. I should here

remind your excellency, that it was in consequence of the representation of the charge des affaires of his majesty that the President of the United States thought proper to establish the mission extraordinary which he has confided to me; and the principal reason offered by Mr. Jaudenes, in his letter of the 16th of August, 1794, for the adoption of this measure was, that "his majesty would not enter into any treaty unless the powers to the ministers of the United States were ample, or accompanied with secret instructions having for object to conclude a *partial*, and not a *general treaty*." After which he adds, "that Spain is ready to treat upon the points of limits, Indians, commerce, and whatever may conduce to the best friendship between the two countries." Having therefore arrived here with the impressions naturally made by these expressions, it is with pain I have received the intelligence which your excellency has given me that his majesty would not, under present circumstances, enter into commercial arrangements. But as commercial conventions should be arrangements of mutual convenience, I have the honour of assuring your excellency that the United States would not desire to have any, if the nation with whom they contract does not find a mutual advantage in them, and for that reason, I have not been more importunate with your excellency for establishing articles on this subject, which the letter I have just cited appeared to authorize. But this is not the case with respect to what regards the navigation of the river Mississippi, which has been the subject of discussion between the two countries since the peace of 1783, and which, after all that has passed, I think that the United States have a right to expect to be put upon an advantageous footing in this treaty. I shall not here repeat what I have already had the honour of representing to your excellency in writing and in conversation on this subject, adding only to my note on the 4th article of the project of your excellency references to some authors on the laws of nations, proving that we pretend to nothing unauthorized by those laws, even admitting we had no other equitable demands on account of the exclusion from that navigation which we have suffered for twelve years. V. Grotius de J. B. & P. L. 2. c. 2. § 15. Puffendorf L. 3. c. 3. § 8. Vattel L. 2. § 129.

I shall here take the liberty of submitting a paragraph which might be added to the last article of the project of your excellency, and which appears to me of a nature not to encounter any difficulty, and may be regarded as an intermediate mean until his majesty shall think proper to

bring forward the ulterior measures on the subject mentioned in this article ; observing, at the same time, that I do not pretend to propose this as an exclusive mean, but that if your excellency should have any other to propose, by which the United States might freely enjoy this navigation without waiting the result of the ulterior measures which circumstances may still put off for a long time, I shall be much charmed at being able to agree thereto, having nothing more at heart than to terminate this discussion to mutual satisfaction. There are some other points in this project of less importance, but which appear to me susceptible of changes which I shall have the honour of adding, in which I think we shall readily agree.

I expect to go to the Sitio to-morrow, and I shall have the honour of presenting my respects to your excellency at the conference on Sunday, when I hope to receive the determination of your excellency on the subject.

I have the honour to be, &c.

In the 5th article the word "offendan," appears to me too vague and indefinite, and therefore it would be better to omit it. In the last paragraph of the 16th article, for "la Espana," should be substituted "las dos Potencias;" because the two powers having equally the liberty of arresting the vessels of the other party in case of neutrality, they should be equally held to make compensation. And although the United States do not support a great naval army during peace, I conceive that in case of a war they would not want resources of this kind ; and in the note which I have already had the honour of presenting on this article I have detailed a case in which an American squadron, under very probable circumstances of arriving soon, might be able to make use of the right which this article would concede. It appears, also, that the price of the articles should be fixed in this convention ; and as it is only in cases of urgent necessity that the right of taking them will be exercised, that price should be fixed high enough to hinder them from being taken without a real necessity, in which case those who would take them might easily have them also on paying a high price, and the neutral nations would be indemnified for their detention, and for having lost the object of their voyage. Wherefore I propose that in lieu of the words "*por tanto de su valor*," there be inserted "at double the price which these effects cost;" which will be proved by the papers relative to the cargoes found on board of the said vessels.

In the 17th article I propose, that instead of "de Espane," towards the end of that article, the words "of the belligerent power" be inserted; and that instead of the last words beginning with "Sino," there be inserted "if it shall not be proved that they truly belong to the subjects or citizens of the contracting power which shall be neutral."

In article 21st, I propose to change the following words: instead of "S. M. Catolica," insert "the two powers;" and instead of "concedera," "shall mutually give on both sides to the commerce between the two nations."

#### TRANSLATION.

*San Lorenzo, October 11, 1795.*

MONSIEUR LE PRINCE,—If I have rightly understood what you did me the honour to say to me at the conference to-day, on the subject of my letter of the 9th current, that you could not agree to add what I proposed to you in the last article of the project of the treaty of your excellency, because that proposition being naturally temporary, and liable to be changed as soon as the ulterior measures brought into question in the last article shall have been taken, you did not think proper to insert it in a treaty whose articles are of a permanent nature, but that you would agree to propose to his majesty, and to support the proposition, that by a separate instrument the accommodation of a depot at New Orleans, which I proposed, shall be agreed on; and that in the same instrument we may also insert the arrangements relative to the prizes made upon the Americans during the war lately terminated. Having therefore reflected on this proposition, I have the honour to reply, that although I do not see under the same point of view as your excellency the objection made to the insertion of a temporary article in the same treaty with other permanent arrangements, since it has generally been practised hitherto, yet the regard I have for your excellency's opinion, and my sincere desire of rendering the arrangements we are treating of as agreeable to Spain as may be compatible with my duty, lead me to acquiesce in this matter, provided that the latter convention be of the same force, and executed at the same time as the principal treaty. And the better to explain my intentions hereon, I take the liberty of sending herein enclosed the project of two separate articles for the latter instrument, such as I can sign, and as I doubt not your excellency will find reasonable.

Mr. Pinckney proposes that the following be added to the last article of the project of M. le Prince :

1. That in the mean while the citizens of the United States shall have liberty to carry their produce and merchandises to New Orleans, and there to lodge them in stores to which there shall be two keys, one of which shall be kept by his majesty's customhouse officer, and the other by the proprietor ; and that they be permitted to import the said effects whenever they think proper in vessels of the United States, without paying customhouse or any other duties, except the ordinary and reasonable price for the hire of the said stores.

2. His catholick majesty having by his ordenanza de corso, dated 1st of May, authorized his vessels of war and privateers to bring into the ports of his domains the vessels of neutral nations laden with merchandises belonging to his enemies, and to detain them until it should appear whether the enemy nation to which those merchandises should belong would not refuse, but on the contrary allow the same privilege, " observing the conduct which it has held and will hold towards Spain, requires a reciprocal treatment on her part."

And whereas a treaty subsists between the United States of America and France, by which the conduct of the two nations is to be governed when one of them is at war ; and it further appearing that the French have observed the stipulations of that treaty with regard to Spain during the war which has just been terminated, his catholick majesty in consequence has agreed with the said United States of America, that all the vessels belonging to the citizens of the said States which shall have been brought into the ports of Spain, as well in Europe as in the dominions of Spain in other parts of the world, shall be judged according to the stipulations contained in the said treaty ; and that there shall be two commissioners appointed on the part of each nation, immediately after the ratification of this convention, who shall determine whether, according to the said treaty, there is any right to indemnity, and who in that case shall fix the sum to be restored, which his catholick majesty shall cause to be paid without delay to the injured party ; and in case of disagreement of the said commissioners, they shall choose by common consent (if they can agree in the choice, if not by lot) a fifth commissioner, and a majority of votes of these five shall finally determine the question, and without appeal.

## TRANSLATION.

*From the Prince. St. Lorenzo, Oct. 12, 1796.*

SIR,—In answer to yours of yesterday, with the two articles referred to our conference for to-morrow, the one relative to the mode in which you wish the effects of the citizens of the United States navigating the Mississippi should be deposited at New Orleans, the other for regulating the prizes made during the present war, I can assure you that his majesty, by a very particular grace, and as a proof of his liberality, will permit the citizens of the United States to deposit their effects in the customhouse at New Orleans, on paying the storage duties to which his own subjects are subjected; but without having the two keys you mention, because this, besides being entirely novel, is also contrary to confidence and good faith. As to what respects the point of prizes I cannot add any thing not already contained in my former official letters, since his majesty will never admit this matter to be included in a treaty or convention.

## TRANSLATION.

*St. Lorenzo, Oct. 16, 1795.*

M. LE PRINCE,—On considering the letters which your excellency has written, and what you have done me the honour to say to me in conversation, in reply to the representations which I have made relative to the vessels which have been taken by the ships of war of Spain during the war, it appears clearly that we agree upon the principles which ought to determine this business, since the verbal convention which you made with Mr. Short, "That Spain will observe in the determination the same conduct towards you which is prescribed by the treaty of commerce between France and the United States," is so much the more satisfactory as your excellency, by your letter of the 23d of September, extends this principle to all the vessels of the United States which have been taken during the war, as well in the American seas as in those of Europe. What at present appears to me necessary is to put it in my power to send to the President of the United States the result of the claims which I have had the honour to make in virtue of my commission on this subject, and to agree upon arrangements for giving effect to these principles. With this view I have the honour to propose that your excellency communicate to me officially the determination of his majesty on the subject, and that the

principles being thus stipulated, commissioners be named on both sides for ascertaining the damages which may be due to the citizens of the United States according to those principles.

## TRANSLATION.

*From the Prince. St. Lorenzo, October 18, 1795.*

SIR,—You refer me, in your letter of the 15th instant, to mine of the 23d ultimo, for what I have said on the mode in which the captures of the vessels of the United States lately made in America shall be judged, and to my verbal conversation on this point both with you and Mr. Short, and you supposed that we perfectly agreed thereon, and that we might conclude upon a rule of procedure conformably to the principles adopted. But from the same context of my letter already mentioned is to be clearly inferred the distinction of two epochs, the one from the beginning of the war until the 6th of April, when his majesty ordered the vessels of the United States to be treated in the same manner as those of France; and the other from the 6th of last April until the present time. The captures made within the first must be judged according to the marine ordinance (*ordinanza de corso*) and the general orders communicated at the time; and the vessels which may have been detained since the first of April in the present year shall be treated in the same manner as those which were then brought from the coast of Cantarabia.

## TRANSLATION.

*St. Lorenzo, October 20, 1795.*

MONSIEUR LE PRINCE,—I am mortified on finding, by the letter with which you honoured me on the 18th, that your excellency proposes to divide the war which has just been terminated into two epochs, and that the American vessels which have been detained by those of Spain during that war should be differently treated, according to the time at which they were taken; as it seems to me that justice, which should govern the conduct of nations towards neutral flags, is always the same, and ought not to be liable to the variations of time or circumstances. It is very clear that the United States were as much neutral and as friendly to Spain at the beginning of the war as after the first of April last, and that consequently they should expect similar treatment at

both epochs. That which is at least certain is, that at all times they ought to be treated according to the laws of nations; and I conceive I have proved very clearly what those laws are on this subject, in my official letter of the 20th of September last. And in order to avoid repetitions I take the liberty of requesting your excellency to recur to that letter for the reasons upon which our claims are founded. As I do not know what are the general orders mentioned by your excellency, which were given before the first of August, 1795, I cannot answer that the United States will be contented with the determinations founded on them. If they are conformable to the armed neutrality of 1780, to which Spain and the United States have declared their adhesion, the United States will have nothing to say against them; but if they were formed upon the supposition that France was not a legitimate power, the laws of nations cannot take place in cases respecting the commerce with that nation; and the United States would not consent to a proposition which would do so much wrong to a friendly power and ally, which would sacrifice the honour of her flag and the property of their citizens when they were occupied in lawful commerce. But in order to avoid all discussion on a subject rather delicate, I have the honour to subjoin to this some specifick propositions, founded upon justice and the laws of nations as now established by the consent of a great majority of the nations of Europe and adopted by Spain herself: which are, That no vessel of the United States which has been detained by the subjects of his catholick majesty since the commencement of the war can be deemed good prize, unless she carry articles which are contraband of war to the enemies of Spain, or unless she be intercepted in endeavouring to enter a port inimical to Spain which was blockaded, having been previously informed of the blockade. That in order to determine what shall be deemed a blockade, this denomination is confined to that only when, by the disposition of the power making the attack, the arrested vessels were sufficiently near to cause an evident danger of their entering.

That for determining what shall be deemed contraband of war, nothing ought to be acknowledged such except the merchandises comprised under that denomination in the 24th article of the treaty made between Spain and England on the 23d of May, 1667, or in the 24th article between France and the United States, concluded in 1778.

That his catholick majesty shall cause to be restored all the vessels belonging to the citizens of the United States,

with their cargoes, which have been taken in this war, except those which came within the above mentioned case, with the damages due for their detention and other losses; and if it be impossible to restore them at present, that his majesty cause to be paid to the owners the amount of their just value.

## TRANSLATION.

*From the Prince. St. Lorenzo, October 20, 1795.*

SIR,—Informed by yours of yesterday of the objection made to the addition proposed to be made to the last article of the treaty relative to the permission given by his catholic majesty to the citizens of the United States for three years to deposit their merchandises at New Orleans, I repeat to you, what I have already said, that I cannot vary it in the least. Observing, however, that in the interval his majesty will have examined the medium through which the navigation may increase the commerce of the subjects and of the citizens of the United States.

## TRANSLATION.

*From the Prince. St. Lorenzo, October 22, 1795.*

SIR,—Observing by yours of the 20th current, that you do not agree to the distinction made in mine of the 18th instant, of the epochs relative to the detention of the vessels of the United States since the beginning of the war between Spain and France lately terminated, you refer to what you expressed on the subject in yours of the 20th September last, and conclude by repeating that all detentions of the said vessels should be decided agreeably to the principles which you laid down as most consonant to the interests of the states, and conformable to the laws of nations. Without waiting to prove to you the modifications which, according to the same laws of nations, those principles are susceptible of, I only inform you that the vessels detained before the 1st of April must be judged like all those of the other powers, according to the marine ordinance (*ordenanza de corso*) of the 1st of May, 1794, a general [regulation for] the United States as well as all others, until the special exception in their favour verified on the 6th of April last by just considerations towards France. This is the reason why they should be judged according to the said ordinance until the epoch mentioned, from which time there is no given case, seeing that from the moment of their detention the vessels have been liberated,

and for the same cause I conceive every proposition superfluous which is not conformable to the said ordinance, and I shall not subscribe to any.

I hope you will entirely agree with me in opinion, as I cannot conclude the treaty until this point be fully settled.

TRANSLATION.

*From Mr. Pinckney. San Lorenzo, October 23, 1795.*

M. LE PRINCE,—The propositions which I had the honour to communicate to you in my letter of the 20th current, having been formed upon principles already recognised by Spain and by the United States, I thought it the best mode for determining all discussion on the subject; for it appears clear that where there is a difference of opinion between two independent powers, it is a happy circumstance if they can have recourse to principles already admitted by both parties, without the one being obliged to give up his opinion, or to sacrifice his rights to the other. With this impression I have the honour of repeating to you that I cannot agree to any proposition which does not contain substantially what I proposed to your excellency in my former representations.

I take the liberty of observing here that your excellency does not appear to have received correct information as to the immediate liberation of the American vessels taken since the 6th of April last, as out of the five carried into Santander, for which I have presented a claim, to wit, the *Liberty*, of New York, the *Maria*, of Boston, the *Providence*, of Philadelphia, the *Abigail*, of New York, and the *Three Friends*, of Salem, the *Liberty* was detained one hundred and ten days; the *Three Friends* was detained at the departure of the last post; and the three others put to sea without a part of their cargoes which your excellency had ordered to be restored; although I know that the officers of the marine at that place have received positive orders from your excellency for the restitution of the said vessels and effects.

As to what concerns the treaty, I agree with your excellency that it would not be convenient to your excellency or myself to sign it until we have agreed relative to the vessels; and I can add that even then I cannot sign unless the manner of navigating the river Mississippi by the citizens of the United States be regulated upon the principles of some one of the propositions which I have had the honour of making to you. I have the honour to be, &c.

## TRANSLATION.

*San Lorenzo, October 24, 1795.*

MONSIEUR LE PRINCE,—Important affairs demanding my return to England, I shall have the honour to take leave of their majesties, as we have agreed, to-morrow, and I take the liberty of requesting you to have the usual passports expedited for my journey. Wishing to enter France by the way of Perpignan, I am desirous also of taking the route of Valentia and Barcelona, and shall be charmed to execute the orders with which your excellency may be pleased to honour me for any place on the road. I embrace this opportunity of testifying to your excellency my acknowledgments for the marks of good will, and for all the friendly offices received from you during my stay here; and I pray you to accept, &c.

## TRANSLATION.

*From the Prince. St. Lorenzo, October 28, 1795.*

SIR,—In consequence of having yesterday signed with you a treaty of friendship, limits and navigation, between the king my lord and the United States of America, and of the information lately received from the governour of Louisiana, stating that the governour of the Natchez had advanced to occupy the post of the Barrancas of Margot, comprehended within our ancient limits; and that some inhabitants of Kentucky and the neighbouring states also intended taking possession; his majesty has commanded the said governour to suspend all hostility, in case any shall have been committed on his part, or on that of the citizens of the United States, leaving matters in the situation in which they may be on the receipt of the order, until the ratification of the treaty; and he most sincerely enjoins all the military officers of the two Floridas to maintain perfect harmony with the commanders of the troops of the United States on those frontiers, as his majesty wishes that the said treaty may eradicate every motive of dispute which has hitherto existed, and that it will more and more strengthen the reciprocal friendship of both countries.

Not doubting but you will communicate every thing without loss of time to the President of the United States, that he may expedite similar orders for preventing every kind of inconvenience on both sides, and perhaps an effusion of blood, now as useless as repugnant to humanity.

## TREATY OF AMITY, LIMITS, AND NAVIGATION.

ART. I.

ART. II. This agrees with our proper boundary.

ART. III. The instructions do not mention this, but I thought it might prevent disputes in future, and would have an immediate good effect with the Indians.

ART. IV. The wording of the latter part of this article seemed objectionable, and various alterations were proposed. It required much contest to obtain any alteration from the mode first proposed by Spain, whose doubts were principally founded on a jealousy of our letting in others. The substance, however, appears to me not disadvantageous when considered as connected with the provision in the 21st article, and the wording fully authorized by my instructions.

ART. V. This article occupied much time; and great prejudices were to be removed. The only part, as it now stands, which may appear objectionable, is the kind of defensive alliance we herein make with Spain against our respective Indians; and as the case was new, and the instructions not pointed on this head, I wished other modifications, more for the sake of farther investigation than from an opinion of disadvantage resulting from it. For it appears to me, under our present and probable future circumstances, to be a beneficial stipulation.

ART. VI. Taken from the 7th of Prussia, with a small addition at the end which appears to me not objectionable.

ART. VII. The first part taken from the 16th of Prussia; the latter part I added, because I considered it a good stipulation in all situations, but particularly so in Spain.

ART. VIII. Taken from the 19th of France.

ART. IX. 16th of France.

ART. X. 9th of Prussia, the last paragraph omitted.

ART. XI. 13th of Prussia, omitting the last paragraph.

ART. XII. 12th of France.

ART. XIII. 20th of France.

ART. XIV. 21st of France.

ART. XV. 23d of France.

ART. XVI. From the 24th of France, to the last paragraph, on which the greatest dissension prevailed. This conclusion is, however, the result of a composition which I hope will not have a bad effect.

ART. XVII. From the 25th of France to the last paragraph. The same remark may be made on this paragraph as was applied to the last article. It may, however, be remarked, that it is evidently to our advantage that every precaution

should be taken to prevent abuses against which this article is directed. Even in this war great injury has been done to the confidence which should be reposed in the sanction of our flag, from its having been assumed by others; and I am sorry to add, from unjustifiable conduct in some of our citizens.

XVIII. From the 27th of France. This being the last of the articles relating to the neutral rights, I will here make an observation applicable to all of this class, which is, that every stipulation in favour of these rights has appeared to be thought by the Spanish cabinet a concession in favour of America. I think I have proved to the minister most clearly, that the amplest freedom given to neutral commerce is consonant to the true interests of Spain; but I have had almost as much trouble to obtain these stipulations as to settle other points wherein their immediate interests were not so clear. After all, they are not exactly as I could wish.

ART. XIX. As no commercial arrangements were made in this treaty, this was all that could be said concerning consuls.

ART. XX. This article appears favourable to us.

ART. XXI. The part of this article which relates to our accommodation on the Mississippi, occasioned the greatest difficulty. It was our difference on this point, and that of the spoliations, which occasioned me to ask for my passports; and the only words of warmth which have passed between the prince de la Paz and myself were on the subject of this article; and on my part, I assure you, they were merely confined to repelling an expression in that line. Upon the whole, the personal conduct of the minister to me has been perfectly satisfactory. By this article we are ensured a permanent depot at New Orleans, or another equivalent establishment, which I hope will prove of real utility. If good faith is observed it certainly will; and without good faith any article [which] could be inserted in a treaty would be nugatory.

ART. XXII. The written correspondence will in part show the various ways in which I endeavoured to arrange this business. The proposal of the British principle of accommodation came from the Spanish negotiator, and was urged upon strong grounds. I trust, however, that this is upon the whole better than the British arrangement. There was at first a rooted repugnance to insert this and the preceding article in the treaty; in which objection the national pride seemed most concerned.

ART. XXIII. The time assigned for the exchange of the ratifications was made so short because I knew the Senate

would be assembled at the time when this treaty may be expected to arrive, and because some stipulations, beneficial to us, cannot be executed till after this exchange.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO ALGIERS. JAN. 9, 1797.

HEREWITH I lay before you, in confidence, reports from the departments of state and the treasury, by which you will see the present situation of our affairs with the dey and regency of Algiers.

GEO. WASHINGTON.

### *To the President of the United States.*

THE Secretary of State respectfully makes the following brief representation of the affairs of the United States in relation to Algiers.

When col. Humphreys left America, in April 1795, he was accompanied by Joseph Donaldson Esq. who had been appointed consul for Tunis and Tripoli; and him col. Humphreys was authorized to employ in negotiating a treaty with Algiers; while he should proceed himself to France, for the purpose of obtaining the co-operation of that government in this negotiation.

They arrived at Gibraltar the 17th of May. Col. Humphreys concluded, that it was expedient for Mr. Donaldson to go first to Alicant rather than Algiers, in order to be near at hand to ascertain facts and profit of occasions. He gave him instructions accordingly; and having also instructed Mr. Simpson, our consul at Gibraltar, to renew our peace with the emperor of Morocco, col. Humphreys sailed from Gibraltar the 24th of May, and arrived at Havre de Grace the 26th of June, from whence he set off immediately for Paris. The object of his mission was communicated by our minister, col. Monroe, to the committee of publick safety. On the 21st of July he had received only a verbal answer, that the French government was disposed to interest itself, and to do every thing in its power to promote the accomplishment of our wishes on the subject in question. On the 28th assurances were received that immediate measures should be taken for giving particular instructions to the agents of the repub-

lick to use its influence in co-operation with us. The multiplicity of affairs with which the officers of the government were occupied, and the getting from London a sum of money necessary to purchase the usual peace presents, prevented a conclusion of the arrangements at Paris until September. It had been judged expedient by col. Humphreys and col. Monroe, that Joel Barlow, Esq. should be employed in the negotiations with the Barbary states; and his consent had been obtained. By the 11th of September all the writings on the part of col. Humphreys were prepared for Mr. Barlow to proceed with the instructions and powers from the government of the French Republick to its agents in Barbary in favour of our negotiation.

Col. Humphreys left Paris the 12th of September, and reached Havre the 14th, where he found the master and mate of the United States brig Sophia, both sick with fevers. While waiting there impatiently for their recovery, he received intelligence from our consul at Marseilles that Mr. Donaldson had concluded a treaty of peace with the dey of Algiers. Nevertheless, col. Humphreys thought it expedient that Mr. Barlow should proceed with the presents prepared and preparing at Paris; for if not needed at Algiers, they would be wanted in the negotiation with Tunis and Tripoli.

About the 5th of October col. Humphreys sailed from Havre; and after a stormy passage of more than forty days, arrived at Lisbon the 17th of November. There he found captain O'Brien, who had arrived about the 1st of October with the treaty with Algiers.

On the 3d of September Mr. Donaldson arrived at Algiers, and on the 5th the treaty was concluded, and the peace present immediately given by a loan from Mr. Bacri, the dey's broker. Mr. Donaldson knowing that funds had been lodged in London to answer his stipulations, engaged to make the payments in three or four months.

Col. Humphreys had received advice, under date of the 30th of July, from the Messrs. Barings, in London, to whom the funds had been remitted, that having made progress in the sales of the United States stock, they should hold at his disposal the whole of the value of 800,000 dollars, meaning to furnish by anticipation the value of that part which remained unsold, if the service of the United States required it. Col. Humphreys counting on the money as always ready after this period, sent captain O'Brien from Lisbon to London in the brig Sophia to receive it. Owing to contrary winds, she did not leave Lisbon till the 24th of December. The

other details relative to the pecuniary transactions appear in the report of the Secretary of the Treasury.

The disappointments in the pecuniary negotiations put the treaty in jeopardy. The dey became impatient, and threatened to abandon it; and it was with extreme difficulty that it was prevented. Mr. Barlow did not arrive at Alicant until February, 1796, where he proposed to wait the arrival of the funds; but after a little time, his intelligence from Algiers showing that our affairs were in a most critical situation, he determined to go thither immediately, with the hope of soothing the dey. He arrived there the 5th of March. They had before prolonged the time to the 8th of April for the payment of the stipulated sums. On the 3d of that month the dey declared what should be his final determination: That in eight days Mr. Barlow and Mr. Donaldson should leave Algiers; and if in 30 days after the money was not paid, the treaty should be at an end, and his cruisers should bring in American vessels. Under these circumstances, and as the last hope of saving the treaty, they were induced to offer the present of a frigate. This fortunately succeeded. For the particulars of this transaction, the Secretary begs leave to refer the President to the enclosed letter from Messrs. Barlow and Donaldson.

Colonel Humphreys not deeming himself authorized to confirm this promise of a frigate, referred the matter to the Executive of the United States; and for this end despatched captain O'Brien in the brig Sophia to America. There was evidently no alternative; and the promise was confirmed. The frigate is now building in Portsmouth, New-Hampshire, and is expected to be finished in the spring. Captain O'Brien returned to Lisbon, where he arrived on the 1st of July. Colonel Humphreys had advantageously negotiated bills on London for 225,000 dollars. This sum was embarked on board the Sophia; and on the 4th of August captain O'Brien set sail for Algiers. He has not since been heard of; and there is room to fear that some misfortune has befallen him. The money was insured at a small premium against the dangers of the seas. Against all risks they demanded so high a premium as colonel Humphreys judged it inexpedient to give, seeing the Sophia was a vessel of the United States, having a special passport from the President, as well as a passport in the Turkish language under the seal of the dey of Algiers.

Such arrangements have been made by Mr. Barlow and Mr. Donaldson, with the house of the Messrs. Bacri, at Algiers and Leghorn, as will doubtless ensure the payment

of the 400,000 dollars, originally expected from the latter place; and the same house have become engaged to the dey and regency for the residue of the money, due as the price of peace, without which he would not agree to the redemption of the captives. The Secretary of the Treasury estimates these further sums to be provided:

To fulfil the terms of the treaty	\$255,759
For two years annuities to the dey	96,246
To which are to be added the 10,000 sequins promised by Mr. Barlow and Mr. Donald- son to Mr. Bacri, mentioned in their letter	18,000
And the expenses of the captives performing quarantine at Marseilles, and transporting them to America, estimated by the consul at Marseilles at about	6,500
	<hr/> \$376,505

On the 31st ult. I received a letter from Mr. Barlow, dated the 12th of July, informing that the agent, a Mr. Famin, at Tunis, who had been recommended to him by the French consul, Herculaïs, had concluded with the bey of that regency a truce for six months from 15th day of June last, and this without any presents.

TIMOTHY PICKERING, Secretary of State.  
Department of State, January 6, 1797.

*To David Humphreys, Esq. American Minister, Lisbon. Al-  
giers, 5th April, 1796.*

SIR,—After finishing our despatches on the 3d instant, to send by the courier to Tangier, we found that the port was to be opened immediately. We therefore gave up that mode of conveyance for a more direct and speedy one by way of Alicant. We have now what we hope will be more agreeable news to announce to you. For two days past we have been witnesses to a scene of as complete and poignant distress as can be imagined, arising from the state of total despair in which our captives found themselves involved, and we without the power of administering the least comfort or hope. The threat which we mentioned to you in our last, of sending us away, had been reiterated with every mark of a fixed and final decision. And the dey went so far as to declare that after the thirty days, if the money did not come, he never would be at peace with the Americans.

Bacri the Jew, who has as much art in this sort of ma-

nagement as any man we ever knew, who has more influence with the dey than all the regency put together, and who alone has been able to sooth his impatience on this subject for three months past, now seemed unable to make the least impression. And the dey finally forbade him, under pain of his highest displeasure, to speak to him any more about the Americans. His cruisers are now out, and for some days past he has been occupied with his new war against the Danes. Three days ago the Danish prizes began to come in, and it was thought that this circumstance might put him in good humour, so that the Jew might find a chance of renewing our subject in some shape or other. And we instructed the Jew, that if he could engage him in conversation on his cruisers and prizes, he might offer him a new American built ship of 20 guns, which should sail very fast, to be presented to his daughter, on condition that he would wait six months longer for our money. The Jew observed that he had better say a ship of 24 guns, to which we agreed. After seeing him three or four times yesterday, under pretences of other business, without being able to touch upon this, he went this morning and succeeded. The novelty of the proposition gained the dey's attention for a moment, and he consented to see us on the subject. But he told the Jew to tell us that it must be a ship of 36 guns, or he would not listen to the proposition. We were convinced that we ought not to hesitate a moment. We accordingly went and consented to his demand, and he has agreed to let every thing remain as it is for the term of three months from this day. But desired us to remember that not a single day beyond that will be allowed on any account.

We consider the business as now settled on this footing, and it is the best ground we could possibly place it upon. You still have it in your power to say peace or no peace; you have an alternative, in the other case you had none, but war was inevitable; and there would have been no hope of peace during the reign of this dey.

The guns are to be eight pounders (English nines) 24 on the main deck, 3 on the quarter deck, and 4 on the fore-castle. The twelve last may be smaller. She ought to be built long in proportion, and formed for sailing fast, a circumstance particularly pleasing here. We think such a vessel fitted for sea may be delivered in America for 45,000 dollars. Then, as by the terms of the treaty we have to deliver a quantity of long spars and other timber, this vessel will be a proper one to transport a cargo of them to this place.

And in this way a saving may be made of about 10,000 dollars in freight.

In order to save the treaty thus far, which has been the subject of infinite anxiety and vexation, we found it necessary some time ago to make an offer to the Jew of 10,000 sequins (18,000 dollars) to be paid eventually if he succeeded, and to be distributed by him at his discretion among such great officers of state as he thought necessary, and as much of it to be kept for himself as he could keep consistent with success. The whole of this new arrangement will cost the United States about 53,000 dollars. We expect to incur blame, because it is impossible to give you a complete view of the circumstances; but we are perfectly confident of having acted right.

With regard to the transfer of the funds to this place, we believe it can be done with the least difficulty through Leghorn: that is, to draw from that place on London, Madrid, or Lisbon, as shall be most advantageous, perhaps on all. Unless you can ship a part in specie from Lisbon, which we believe would be the preferable mode for such a sum as you can ship.

Mr. Donaldson sails to-morrow for Leghorn, there to wait your orders on this head. There is no time to be lost. You will be pleased to instruct him as soon as possible; and let our measures from this time forward be effectual. We are obliged to incur a considerable expense to get this letter to Alicant. We hope it will reach you soon. We remain, sir, &c.

JOEL BARLOW,

JOSEPH DONALDSON, JUN.

*Report of the Secretary of the Treasury. January 4, 1797.*

THE Secretary of the Treasury, in obedience to directions from the President of the United States, respectfully makes the following representation respecting the application of the fund destined for the execution of the treaty with Algiers.

In pursuance of an act passed on the 21st day of February, 1795, the sum of 800,000 dollars was borrowed of the bank of the United States, which was paid in 6 per cent. stock. A conviction of the urgency of the case, and a disposition to accommodate the government, alone induced the bank to consent to the loan, as the stock was then saleable in large quantities at par, including interest. Bills of exchange were not readily obtainable, and the sudden exportation of so considerable a sum of specie would have been attended with inconvenient effects. Indeed, no alternative

offered but to renounce the negotiation, or to remit stock as a fund.

Various causes operated to produce a depression of the prices of all kinds of publick stock, soon after the remittances had been made. The rates at which sales have been effected are as follows :

\$560,000 sold for sterling £111,053 15 0

\$240,000 remained unsold at the

date of the latest advi-

ces which may be esti-

mated at 80 pr. cent. or 43.200 00 0

\$800,000 in stock will therefore

produce in sterling

money -

£154,253 15 0 or \$685,572 22

Of the sum of \$305,911<sup>37</sup>/<sub>100</sub> appropriated for treaties with Mediterranean powers by the act of May 31, 1796, there was estimated for a deficiency on account of the treaty with Algiers the sum of

\$51,132

The whole of the grants for the Algerine treaty may therefore be considered as equal to an effective fund in London of

\$736,704 22

The expenses of carrying the treaty into effect are estimated as follows :

Payments stipulated at the time of closing the treaty to the dey, his officers, and the treasury, for the redemption of the captives

\$525,500

To which are to be added agreeably to Mr. Donaldson's calculation,

For per centage on the captives - 27,000

Peace presents, consular presents, &c. 60,000

Commissions to the Jew broker, and presents to principals, &c. - 30,000

Amount of money to be paid in Algiers \$642,500

The expenses of remitting the sum last mentioned from London to Algiers, according to the best estimate which can be formed, will be as follows :

\$140,000 procured at Leghorn by

bills on London, cost

4s. 10<sup>5</sup>/<sub>100</sub> sterling pr. dol-

lar, or sterling

£34,110 00 0

\$260,000 expected to be obtained

at 5s. will be

65,000 00 0

£99,110 0 0 or \$440,488 88

\$40,000 remitted to Hamburg cost, sterling	
£9,002 18 8 or dollars	40,013 04
\$225,000 procured at Lisbon, for which draughts have been past for stlg.	
£50,007 16 0 or dollars	222,256 89

\$665,000 placed in Leghorn, Hamburg, and Lisbon, and supposed to be sufficient to discharge the pecuniary obligations of the treaty, will probably cost - \$702,758 81

Payments made to col. Humphreys, £3,471 0 0

Payment to captain O'Brien, - 31 0 0

Sterling £3,502 0 0 or \$15,564 44

The naval stores stipulated by Mr. Donaldson were estimated at \$57,000, but which, agreeably to his enumeration of the articles, will cost agreeably to the estimate of the purveyor marked A 121,413

The freight of the said stores is computed at 50,000

The expense of the frigate lately promised, agreeably to the estimate of the Secretary at War herewith transmitted marked B, will be 99,727

The whole expense of fulfilling the treaty, according to this estimate, therefore is - \$992,463 25

From which sum the effective value of the provisions already made being deducted as before estimated - 736,704 22

There will remain to be provided \$255,759 03

The annexed paper marked C is a copy of a representation from Messrs. Barings and company to the minister of the United States in London, dated August 29th, 1796, the accuracy of which is confirmed by the correspondence therein referred to: there is therefore no room to doubt but that the delays, and consequent accumulation of expenses, are to be attributed solely to the extraordinary events of the war in Europe, and to other causes over which the government of the United States have had no control.

By the last article of the treaty, the United States are bound to pay an annuity of 12,000 Algerine sequins in maritime stores. The cost and freight of the articles required

by the dey for the two first years annuity will, agreeably to the purveyor's estimate marked D, be \$144,246 63

For which the appropriation made by the act of May 6, 1796, for two years, being deducted 48,000

There will remain to be provided on this account the sum of - - - \$96,246 63

All which is respectfully submitted by

OLIVER WOLCOTT,  
Secretary of the Treasury.

### A.

*An Estimate of the probable cost of Articles for the Algerine Treaty. December 29, 1796.*

500 barrels of powder, at 15 <i>l</i> .	-	£7,500 0 0
66 tons of lead, at 40 <i>l</i> .	-	2,640 0 0
20,000 cannon ball, at 276 <i>l</i> .	-	2,760
5,000 double headed shot	-	690
200 pieces of canvas	-	1,100
2,000 gun barrels	-	2,000
50 masts, at 100 <i>l</i> .	-	5,000
100 spars, at 40 <i>l</i> .	-	4,000
10 cables and cordage, 45 tons, at 135 <i>l</i> .	-	10,575
3,000 pine and oak plank 6 inches thick, 50 feet long	-	9,000
200 ps. scantlin	-	540
200 barrels tar	-	200
100 barrels pitch	-	150
10 cannon, &c.	-	500

£46,655

Equal to \$124,413

TENCH FRANCIS, Purveyor.

### B.

*Estimate of the Sum necessary to build and equip a Frigate to carry thirty-six Guns for the Dey of Algiers. To which is added an Estimate of navigating the same to Algiers.*

Carpenter's bill for building the hull, launching the same, together with a complete set of masts and yards, per ton - \$45

Joiner's, smith's, plumber's, boat-builder's, carver's, cooper's, blockmaker's, sail-

maker's, rigger's and rigging with ship-  
chandler's bills - - - \$55

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Ship complete of 538 tons, per ton	\$100 is	53,800	00
Copper sheathing	- - -	4,118	40
Cannon	- - -	8,428	60
Copper pintles and braces	- - -	1,240	
Powder, shot, and other military stores	- - -	13,551	
40 men, including officers, their pay and sub- sistence for five months	- - -	8,589	
Contingencies	- - -	10,000	

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War Office, Dec. 26, 1796.

\$99,727

JAMES M'HENRY.

### C.

*Statement of Messrs. Baring and Co. Aug. 29, 1796.*

In the execution of the business with which Baring and Co. have been entrusted, they have communicated to Mr. Pinckney from time to time every material circumstance which has occurred; but as the present position is extremely critical and important, they will endeavour to state as concise a narrative as possible from the commencement of the business, for the consideration and determination of Mr. King.

March 7, 1795. The president of the bank remit to Baring and Co. \$800,000 in certificates of the 6 per cent. stock, with orders to sell the same, without causing a depression in the prices and thus injuring the credit of American funds. The net proceeds, after deducting the usual commissions, are to be held at the disposal of colonel David Humphreys. And we are directed to inform colonel Humphreys of the progress we may make from time to time in the sales of the stock, and also of the terms upon which remittances can be made to Cadiz or Leghorn.

This contains nearly the whole of our orders, or at least the whole of what we conceive to be necessary for the information of Mr. King in the present moment. The further letters from America being almost wholly answers to our numerous letters, and do not contain a syllable of disapprobation with regard to our conduct, but the reverse.

March 31, 1795. Colonel Humphreys writes from Philadelphia that we would furnish him with information, assistance, &c. directed to him at Lisbon.

April 28. We wrote very fully to colonel Humphreys containing every information relative to the probable sale of

the stock, and the various means by which he could execute his commission through London, Lisbon, Cadiz, and Italy, in general.

May 19. We wrote still more fully in answer to his letter of the 31st March, wherein we offered to anticipate a considerable sum on the value of the effects in our hands, for which there was no demand at the moment. We explained to him the value of the Italian coins, those of Spain being well known, mentioning that it was easier to procure money at Leghorn, where there was no restraint, than at Cadiz, where dollars were more plentiful, but the exportation was exclusively in the bank of St. Charles, from whom it was difficult to obtain permission. That we would procure any quantity in London; to which we added the names of our correspondents at the different places, offering every service in our power direct or indirect.

May 18. Colonel Humphreys advises his arrival at Gibraltar.

July 21. We advise colonel Humphreys that we had sold \$300,000; that we were ready to pay £100,000 to his order; and if he wanted a further sum we desired to be informed.

July 27. Colonel Humphreys directs us to pay \$40,000 to Mr. Deas for Mr. Andrews, which was immediately complied with by a credit on Hamburg for that value.

July 30. We informed colonel Humphreys that having made further progress in our sales, we should hold the whole of the value of \$300,000 at his disposal, meaning to furnish by anticipation the value of that part which remained at that time unsold, if the service of the United States required it.

Nov. 23—Is the next letter from colonel Humphreys, and the commencement of our difficulties. He informs us that he should send the *Sophia* for the purpose of receiving Portugal gold and Spanish dollars in London, to the amount of 650,000 Spanish dollars. He further opens credits in favour of Messrs. Dohrmans of Lisbon, which were punctually paid;—and he desires remittances on Lisbon, which, from the scarcity of paper at the time, was effected to a very trifling amount.

This letter was followed and confirmed by others from colonel Humphreys, dated the 16th, 22d, and 24th December, of a similar tenour, or very nearly so, and the arrival of the brig *Sophia* from Lisbon.

Although colonel Humphreys has not mentioned to us the reasons for this proceeding, we may impute it to the advice contained in our letter of the 19th May, and indeed to the well known facility with which a sum of that description could be procured in London of Spanish dollars, having our-

selves never experienced the least difficulty in disappointment for large sums.

December 22. We answered these letters, advising colonel Humphreys of the impossibility to procure Portugal gold, none having been received for many years; of the extraordinary turn which had appeared with regard to bullion, in consequence of the immense drains upon the country for carrying on the war, and which has finally compelled the minister to abandon his favourite project of a second loan to the emperor. But as the difficulty had only began to appear, we hoped that with some delay we should be able to collect the dollars for the purpose of executing the orders of colonel Humphreys.

January 17, 1796. Finding it impossible to procure gold, and no silver arriving, we submitted the whole of the orders and correspondence to Mr. Pinckney; when it was determined to purchase such silver as might arrive; but at all events to detain the *Sophia*, which could not be wrong, as the westerly winds would have prevented her sailing. In the mean while we wrote to Messrs. Parish & Co. of Hamburg, to know whether Portugal gold or Spanish dollars could be obtained in that place.

Jan. 19, 26, Feb. 2, 12, 1796—Are letters we wrote to colonel Humphreys, wherein we acquainted him with our prospects from time to time; that Parish & Co. gave us reason to hope for the execution of a part of the order; but that no silver had arrived in London.

Feb. 16. Having determined, with the approbation of Mr. Pinckney, to send the *Sophia* to Hamburg, in consequence of the encouragement of Messrs. Parish & Co. on applying to captain Crandon, he observed that it was contrary to his instructions, which were to return to Lisbon. And as considerable doubts existed about proceeding to Hamburg, Mr. Pinckney declined giving a positive order to captain Crandon, which proved fortunate, as immediately after advice was received from Messrs. Parish & Co. that the dollars they had in view had been purchased, most probably for account of the British government. On this occasion, and under this date, we wrote to colonel Humphreys by the brig *Sophia*, and by the packet, acquainting him with our disappointment in toto; which we accompanied, at the intimation of Mr. O'Brien, with letters of credit on Madrid and Cadiz. And in order to finish this part of the subject, as a justification for permitting the *Sophia* to return, we should observe, that if she had been detained for six months, we could not have procured one half of the quantity of the Spanish dollars required.

March 1. We advised colonel Humphreys that we had received a large sum in bills drawn from Leghorn on the British government, being for money sent to Algiers, and which appeared afterwards to be for the release of the Corsican prisoners.

March 22, 29—Are answers to letters from colonel Humphreys relative to our accounts chiefly, dated 27th February and 9th March, which we do not notice, concluding that he was satisfied, as nothing appears in reply to us, but as there was reason to fear the business could not be executed in Spain, the government there refusing a license, notwithstanding the endeavours of Messrs. Joyes and Sons, aided by the American minister or resident.

April 1. We wrote to Messrs. Fonnereau, of Leghorn, not only to open the necessary credit, but to explain to them in a full and confidential manner the nature and extent of our preceding disappointments, requesting (with the approbation of Mr. Pinckney and colonel Humphreys) that they would convey to Algiers (through the medium of Bacri, who is brother to the person employed and trusted at Algiers by the dey for all his transactions with Europeans) such information as should satisfy the dey that the delay in paying the money, did not arise from the want of funds, credit, or endeavours, on the part of the United States, but must be solely attributed to the political convulsions in Europe, which had annihilated the usual channels or modes of procuring the coin for the purpose. It is unnecessary to quote dates of letters, as there appears but one opinion on the subject, namely, "that the business must finally be done at Leghorn, and both Mr. Pinckney and colonel Humphreys recommend most earnestly that the information alluded to should be conveyed to Algiers."

April 29. [Mess.] Fonnereau answer our letter of the 1st, promising to follow the orders of colonel Humphreys; and that Bacri would communicate to Algiers every thing we had desired.

June 17. [Mess.] Fonnereau advise the delivery to them on that day of the orders from colonel Humphreys to pay to the order of Mr. Donaldson \$400,000 Spanish milled dollars, which they acquaint him shall be immediately complied with.

June 19. Mr. Donaldson acquaints Messrs. Fonnereau, that he should accept the sum; and on a meeting between them and Bacri, the price of the dollars with that of the agio, was settled to the satisfaction of Bacri.

June 20, 24. [Mess.] Fonnereau draw for what money

they could procure, and on the 24th write "Enclosed you have Mr. Donaldson's receipt for \$140,000 paid to him by order of colonel Humphreys. This business might have been completely finished by our giving to Mr. Donaldson bills on you, or on Hamburg, for the remaining \$260,000 which Bacri offered to negotiate for him, and to give him a receipt for the whole \$400,000 which he engaged to ship for Algiers; but a certain diffidence on his side would not permit him to sign receipts to us for more than he had absolutely received in cash."

June 27. The French entered Leghorn, and Fonnereau embarked on board an English frigate.

July 15. Mr. Donaldson draws on us for the sum of £10,000.

Bacri, under the same date, inquires about Mr. Donaldson's credit on us, and whether we have orders for more than \$400,000?

This question leads to a state of the account, with an estimate of the effects in our hands. Of the original sum sent to us we have only sold \$560,000 the price having fallen at one time so low as 32; and believing that government would feel reluctant to sell under 90, we had determined to anticipate on the value of the remainder, waiting for our reimbursement in due time.

The \$560,000 above have produced	£111,053
Some part was sold above 90 per cent. and none below that price, which leaves circa [about] 3s. 11½d. per dollar. The present price is 36 with little demand, suppose the remaining \$240,000 produced 3s. 9d. per dollar, the amount will be	45,000

Total amount of sales and effects	£156,053
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The great defalcation in the nominal dollars arises from the remittances being made in funds, which sell at 10 per cent. under par, and the payment being made in foreign money at a rate very much above par; that of Leghorn in particular has advanced 16—18 per cent. above what it was, not a long while since;

Our payments are as follows:

Credit on Hamburg \$40,000	£9,002
The draughts of Doorman	50,007
Remittances to colonel Humphreys	3,036
his draught 22d December	435
Paid O'Brien	31

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£62,511

Brought forward	£62,511
Paid sundry persons for the dividends on stock sold 2,497 \$140,000 paid Mr. Donaldson we calculate circa	
4s. 10 $\frac{5}{106}$ each	34,110
	<hr/>
	£99,118
Suppose the remaining \$260,000 which includes Mr. Donaldson's draughts, calculated at the same rate, the amount will be at 5s.	65,000
	<hr/>
Total amount of payments	164,118
Ditto of sales and effects	156,053
	<hr/>

The sum of £2,497 paid by us for dividends will be received again by us from America, and of course appear ultimately to the credit of the United States.

Under all the circumstances which have been stated, it is submitted to Mr. King what ought to be done in the present moment?

Mr. Fonnereau says that reliance may be had on Bacri having conveyed to Algiers the information requested; and moreover, that it will be thoroughly satisfactory at that place. Bacri is a wealthy man, and willing to do a friendly action; that he is much trusted by the French, and that the banker of Fonnereau is also banker to the French.

On the other hand, the sum to be drawn is more than sufficient to enable Bacri to fix the course of exchange for many weeks, and also the agio for a considerable time. This idea may be carried still farther, for in the present situation of Leghorn, there is in fact no exchange, and the draughts of Mr. Donaldson must be negotiated elsewhere. The Italians moreover know, that bills drawn from Leghorn, subsequently to the entry of the French cannot be paid in London without a license, &c.

Baring and Co. can have no difficulty with regard to themselves. They are directed to hold the proceeds or value (which they conceive to be equally the intention of the United States) at the disposal of colonel Humphreys, who directs them to pay \$400,000 to the order of Mr. Donaldson, which will be punctually complied with to the extent of sales and value of what remains under a proper license. But that zeal which has induced them to follow the business into foreign parts without any other motive for their so doing, induces them to submit the difficulties which occur with regard to the actual position of Leghorn, a doubt whether the business can be executed from thence at present; and still more, the de-

falcation which must arise respecting the funds, to the consideration of Mr. King, for his better judgment; and which they trust will serve as an apology for the detail with which they now trouble him.

£156,053 sales and supposed value.

2,497 dividends.

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158,550

5,568 deficient supposing Mr. Donaldson can negotiate the remaining \$260,000 at 5s. those of Mr.

£164,118 Fonnereau having cost 4s. 10 $\frac{55}{100}$ .

### D.

*An Estimate of the probable Cost and Freight of the maritime Stores necessary for paying the first and second Year's Annuities to the Dey and Regency of Algiers.*

1000 Barrels of powder	-	£15,000
2000 pine and oak plank	-	6,000
3000 pine boards	-	4,500
2000 pipe staves	-	50
100 dozen long tar brushes	-	100
34 cables, 80 tons	-	10,800
10 coils white rope 11,200 pounds	-	500
5 tons yarn	-	975
100 bolts canvas	-	550
3 tons lead	-	120
35 tons spikes	-	3,597 10 0
2000 bomb shells	-	650

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£42,842 10 0

Equal to  
To transport the above to Algiers, suppose

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\$114,246 $\frac{63}{100}$   
30,000

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\$144,246 $\frac{63}{100}$

Dec. 29th 1796.

TENCH FRANCIS,  
Purveyor.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS  
RELATIVE TO ALGIERS. JUNE 23, 1797.

THE dey of Algiers has manifested a predilection for American built vessels, and in consequence has desired that two vessels might be constructed and equipped, as cruisers, according to the choice and taste of captain O'Brien. The cost of two such vessels, built with live oak and cedar, and coppered, with guns and all other equipments complete, is estimated at forty-five thousand dollars. The expense of navigating them to Algiers may perhaps be compensated by the freight of the stores with which they may be loaded on account of our stipulations by treaty with the dey.

A compliance with the dey's request appears to me to be of serious importance; he will repay the whole expense of building and equipping the two vessels; and as he has advanced the price of our peace with Tripoli, and become pledged for that of Tunis, the United States seem to be under peculiar obligations to provide this accommodation; and I trust that Congress will authorize the advance of money necessary for that purpose.

It also appears to be of importance to place at Algiers a person as consul, in whose integrity and ability much confidence may be placed, to whom a considerable latitude of discretion should be allowed, for the interest of the United States in relation to their commerce. That country is so remote as to render it impracticable for the consul to ask and receive instructions in sudden emergencies. He may sometimes find it necessary to make instant engagements for money, or its equivalent, to prevent greater expenses or more serious evils. We can hardly hope to escape occasions of discontent proceeding from the regency, or arising from the misconduct, or even the misfortunes, of our commercial vessels navigating in the Mediterranean sea; and unless the causes of discontent are speedily removed, the resentment of the regency may be exerted with precipitation on our defenceless citizens, and their property, and thus occasion a tenfold expense to the United States. For these reasons it appears to me to be expedient to vest the consul at Algiers with a degree of discretionary power, which can be requisite in no other situation. And to encourage a person deserving publick confidence to accept so expensive and responsible a situation, it appears indispensable to allow him

a handsome salary. I should confer on such a consul a superintending power over the consulates for the states of Tunis and Tripoli, especially in respect to pecuniary engagements, which should not be made without his approbation.

While the present salary of two thousand dollars a year appears adequate to the consulates of Tunis and Tripoli, twice that sum probably will be requisite for Algiers.

JOHN ADAMS.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO GENERAL WASHINGTON. JULY 17, 1798.

BELIEVING that the letter received this morning from general Washington will give high satisfaction to the Senate, I transmit them a copy of it, and congratulate them and the publick on this great event, the general's acceptance of his appointment as lieutenant general and commander in chief of the army.

JOHN ADAMS.

*Mount Vernon, July 13, 1798.*

DEAR SIR,—I had the honour on the evening of the 11th instant to receive from the hands of the Secretary of War, your favour of the 7th, announcing that you had, with the advice and consent of the Senate, appointed me "lieutenant general and commander in chief of all the armies raised or to be raised for the service of the United States."

I cannot express how greatly affected I am at this new proof of publick confidence, and the highly flattering manner in which you have been pleased to make the communication; at the same time I must not conceal from you my earnest wish, that the choice had fallen upon a man less declined in years, and better qualified to encounter the usual vicissitudes of war.

You know, sir, what calculation I had made relative to the probable course of events on my retiring from office, and the determination I had consoled myself with, of closing the remnant of my days in my present peaceful abode; you will therefore be at no loss to conceive and appreciate the sensations I must have experienced to bring my mind to any conclusion that would pledge me, at so late a period of life, to leave scenes I sincerely love, to enter upon the boundless

field of publick action, incessant trouble, and high responsibility.

It was not possible for me to remain ignorant of, or indifferent to, recent transactions. The conduct of the directory of France towards our country ; their insidious hostility to its government ; their various practices to withdraw the affections of the people from it ; the evident tendency of their acts and those of their agents to countenance and invigorate opposition ; their disregard of solemn treaties and the laws of nations ; their war upon our defenceless commerce ; their treatment of our ministers of peace ; and their demands amounting to tribute ; could not fail to excite in me corresponding sentiments with those my countrymen have so generally expressed in their affectionate addresses to you. Believe me, sir, no one can more cordially approve of the wise and prudent measures of your administration. They ought to inspire universal confidence ; and will no doubt, combined with the state of things, call from Congress such laws and means as will enable you to meet the full force and extent of the crisis.

Satisfied, therefore, that you have sincerely wished and endeavoured to avert war, and exhausted, to the last drop, the cup of reconciliation, we can with pure hearts appeal to Heaven for the justice of our cause ; and may confidently trust the final result to that kind Providence who has heretofore, and so often, signally favoured the people of these United States.

Thinking in this manner, and feeling how incumbent it is upon every person, of every description, to contribute at all times to his country's welfare, and especially in a moment like the present, when every thing we hold dear and sacred is so seriously threatened, I have finally determined to accept the commission of commander in chief of the armies of the United States ; with the reserve, only, that I shall not be called into the field until the army is in a situation to require my presence, or it becomes indispensable by the urgency of circumstances.

In making this reservation, I beg it to be understood, that I do not mean to withhold any assistance to arrange and organize the army, which you may think I can afford. I take the liberty also to mention, that I must decline having my acceptance considered as drawing after it any immediate charge upon the publick, or that I can receive any emoluments annexed to the appointment, before entering into a situation to incur expense.

The Secretary of War being anxious to return to the seat

of government, I have detained him no longer than was necessary to a full communication upon the several points he had in charge. With very great respect and consideration I have the honour to be, &c. GEO. WASHINGTON.

John Adams, President of the United States.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO TREATY WITH PRUSSIA. FEB. 17, 1800.

I now lay before you the instructions given to our minister at the court of Berlin, with the correspondence respecting the negotiation of the treaty with Prussia, according to your request of the 12th of this month. JOHN ADAMS.

[Documents returned to the Department of State. Copies not to be procured.]

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
THE FRENCH REPUBLICK. DEC. 22, 1800.

[Cannot be published. Message, &c. recalled, and copy not to be found.]

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS,  
RELATIVE TO TRANSACTIONS WITH THE BARBARY POWERS.  
MARCH 1, 1802.

I TRANSMIT, for the information of Congress, letters recently received from our consuls at Gibraltar and Algiers, presenting the latest view of the state of our affairs with the Barbary powers. The sums due to the government of Algiers are now fully paid up; and of the gratuity which had been promised to that of Tunis, and was in a course of preparation, a small portion only remains still to be finished and delivered.

TH: JEFFERSON.

*Extract of a Letter from John Gavino, Esq. Consul of the United States of America at Gibraltar, to the Secretary of State. December 29, 1801.*

“ON the 22d instant, arrived captain M’Neale, in eight days from L’Orient, in the State frigate Boston, and pro-

ceeded next day into the Mediterranean in quest of commodore Dale. By said gentleman I was honoured with your letter of 3d October last, with two enclosed for consul Cathcart, which I have forwarded by different posts to consul Appleton, of Leghorn, to be delivered him if there; else to be sent him by some safe conveyance.

Three Swedish frigates, commanded by an admiral, arrived at Malaga from Sweden to cruise against the Tripolines.

I am just informed from Malaga, that the Swedish admiral Cedestron has four frigates, and his orders from the king of Sweden are to consult and co-operate with commodore Dale regarding the Tripolines."

*Extract of a Letter from John Gavino, Esq. American Consul at Gibraltar, to the Secretary of State. Jan. 11, 1802.*

"THE last despatch I had the honour of addressing you was No. 178, to which refer, as well as the copy of consul O'Brien's letter then enclosed you.

On the 7th instant arrived an English frigate from England, with a British consul on board, and the Algerine ambassador, who had been some time in England. The consul, Mr. Hargrave, had a box intrusted to him from our minister, Mr. King, for consul Eaton, of Tunis, which contained jewels as a present from our President for the bey. They sailed said day, and I informed consul O'Brien thereof to be on the look out for their safety, as Mr. Hargrave meant to go from Algiers to Tunis by land.

I now enclose you a copy of a letter from commodore Dale, dated at Toulon, the 7th ultimo, duplicates of which I delivered to captain Bainbridge, whose frigate is at anchor in Algeziras bay. Captain M'Naile, in the Boston, sailed from Malaga for Toulon to see commodore Dale. Consul Simpson writes me from Tangier that the Tripoline ambassador had gone up to see the emperor, and that the commander of the cruiser laid up here had been with him some time.

P. S. The Swedish admiral has left Malaga to join commodore Dale."

*Captain O'Brien to Consul Gavino, at Gibraltar. Algiers, November 28, 1802.*

ESTEEMED SIR,—On the 14th instant called off this port the United States ship President, commodore Dale. He landed the money thirty fathoms, and I have therewith made a cash payment to the regency for one years' annuity. The President steered [for] Mahon. On the 22d sailed the Unit-

ed States ship George Washington, having under her convoy for Tunis the ship Peace and Plenty. There was no alternative for the detention of those two vessels at Algiers, owing to severe weather to unload and ballast; the which, and the fitting out of six sail of the largest corsairs, occupied the marine entirely for nineteen days. They sailed on the 5th instant; and since I have not heard more of them. I suppose the westerly winds have drove them to the east.

We have finally paid all our debt to the regency on the annuities. We are square for six years from the 5th September, 1795, to the 5th September, 1801. We owe to the B. and B. of Algiers fifteen fathom and some rope yarns; and I have besides given bills to captain Shaw, on the Secretary of State, for eight fathom and some strands and rope yarns. This information please to forward to the Secretary of State, and communicate the same to the captains of the United States frigates which should be at or call at Gibraltar. I am, sir, &c. O'BRIEN.

N. B. The Washington, from Tunis, will run down the other shore, and offer convoy to all that will be ready to accept of her protection.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO TREATY WITH GREAT BRITAIN, AND BRITISH  
DEBTS. MARCH 29, 1802.

THE commissioners who were appointed to carry into execution the 6th article of the treaty of amity, commerce and navigation between the United States and his Britannick majesty, having differed in opinion as to the objects of that article, and discontinued their proceedings, the Executive of the United States took early measures, by instructions to our minister at the British court, to negotiate explanations of that article. This mode of resolving the difficulty, however, proved unacceptable to the British government, which chose rather to avoid all further discussion and expense under that article, by fixing at a given sum the amount for which the United States should be held responsible under it. Mr. King was consequently authorized to meet this proposition; and a settlement in this way has been effected by a convention entered into with the British government, and now communicated for your advice and consent, together with the instructions and correspondence relating

to it. The greater part of these papers being originals the return of them is requested at the convenience of the Senate.

TH: JEFFERSON.

[The Documents transmitted with the above Message were returned; and copies of them could not be procured.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO CONVENTION WITH GREAT BRITAIN RESPECT-  
ING BOUNDARY. OCT. 24, 1803.

I LAY before you the convention signed on the 12th day of May last, between the United States and Great Britain, for settling their boundaries in the northeastern and northwestern parts of the United States, which was mentioned in my general message of the 17th instant; together with such papers relating thereto as may enable you to determine whether you will advise and consent to its ratification.

TH: JEFFERSON.

*Convention between the United States of America and His Britannick Majesty.*

IN order that the boundaries between the territories of his Britannick majesty, and those of the United States of America may be more precisely ascertained and determined, than has hitherto been done, the parties have respectively named their plenipotentiaries, and given them full powers, to negotiate and conclude a convention for this purpose, that is to say:—His Britannick majesty has named for his plenipotentiary, the right honourable Robert Banks Jenkinson, (commonly called lord Hawkesbury,) one of his majesty's most honourable privy council, and his principal secretary of state for foreign affairs; and the President of the United States, by and with the consent of the Senate thereof, has appointed for their plenipotentiary, Rufus King, Esq. their minister plenipotentiary to his said majesty; who have agreed upon, and concluded the following articles:—

ART. I. The line hereinafter described shall, and hereby is declared to be the boundary, between the mouth of the river St. Croix and the bay of Fundy, that is to say, a line beginning in the middle of the channel of the river St. Croix at its mouth (as the same has been ascertained by the commissioners appointed for that purpose) thence through the middle of the channel between Deer Island on the east and

north, and Moose Island and Campo Bello Island on the west and south, and round the eastern point of Campo Bello Island, to the bay of Fundy; and the islands and waters northward and eastward of the said boundary, together with the island of Campo Bello, situate to the southward thereof, are hereby declared to be within the jurisdiction, and part of his majesty's province of New Brunswick; and the islands and waters southward and westward of the said boundary, except only the island of Campo Bello, are hereby declared to be within the jurisdiction and part of Massachusetts, one of the said United States.

ART. II. Whereas, it has become expedient that the northwest angle of Nova Scotia, mentioned and described in the treaty of peace between his majesty and the United States, should be ascertained and determined, and that the line between the source of the river St. Croix, and the said northwest angle of Nova Scotia, should be run and marked according to the provisions of the said treaty of peace; it is agreed, that for this purpose commissioners shall be appointed in the following manner, viz. one commissioner shall be named by his majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two commissioners shall agree in the choice of a third; or if they cannot agree, they shall each propose one person, and of the two names so proposed, one shall be taken by lot in the presence of the two original commissioners; and the three commissioners so appointed shall be sworn, impartially to ascertain and determine the said northwest angle of Nova Scotia, pursuant to the provisions of the said treaty of peace, and likewise to cause the said boundary line between the source of the river St. Croix, as the same has been determined by the commissioners appointed for that purpose, and the northwest angle of Nova Scotia to be run and marked according to the provisions of the treaty aforesaid; the said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit; they shall have power to appoint a secretary, and employ such surveyors, and other assistants as they shall judge necessary: the said commissioners shall draw up a report of their proceedings, which shall describe the line aforesaid, and particularize the latitude and longitude of the place ascertained and determined as aforesaid to be the northwest angle of Nova Scotia, duplicates of which report, under the hands and seals of the said commissioners, (or of a majority of them,) together with duplicates of their accounts, shall be delivered to such per-

sons as may be severally authorized to receive the same in behalf of their respective governments ; and the decision and proceedings of the said commissioners, or of a majority of them, made and had as aforesaid, shall be final and conclusive.

ART. III. It is further agreed, that the said commissioners, after they shall have executed the duties assigned to them in the preceding article, shall be, and they hereby are authorized, upon their oaths, impartially to ascertain and determine the northwesternmost head of Connecticut river, according to the provisions of the aforesaid treaty of peace, and likewise to cause the boundary line, described in the said treaty of peace, between the northwest angle of Nova Scotia, and the said northwesternmost head of Connecticut river, to be run and marked pursuant to the provisions of the said treaty ; the said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit ; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary ; the said commissioners shall draw up a report of their proceedings, which shall describe the boundary line aforesaid, and particularize the latitude and longitude of the northwesternmost head of Connecticut river ; duplicates of which report, under the hands and seals of the said commissioners, or of a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same in behalf of their respective governments : and the decision and proceedings of the said commissioners, or of a majority of them, made and had as aforesaid, shall be final and conclusive.

ART. IV. It is further agreed, that the aforesaid commissioners shall be respectively paid in such manner as shall be agreed between the two parties ; such agreement to be settled at the time of the exchange of the ratifications of this convention ; and all other expenses incurred by the said commissioners shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the said commissioners ; and in the case of death, sickness, or necessary absence, the place of any commissioners shall be supplied in the same manner as such commissioner was appointed, and the new commissioner shall take the same oath, and do the same duties.

ART. V. Whereas, it is uncertain whether the river Mississippi extends so far to the northward as to be intersected by a line drawn due west from the Lake of the Woods, in

the manner mentioned in the treaty of peace between his majesty and the United States, it is agreed, that instead of the said line, the boundary of the United States in this quarter shall, and is hereby declared to be, the shortest line which can be drawn between the northwest point of the Lake of the Woods, and the nearest source of the river Mississippi; and for the purpose of ascertaining and determining the northwest point of the Lake of the Woods, and the source of the river Mississippi that may be nearest to the said northwest point, as well as for the purpose of running and marking the said boundary line between the same, three commissioners, upon the demand of either government, shall be appointed and authorized upon their oaths to act, and their compensation and expenses shall be ascertained and paid, and vacancies supplied in the manner provided in respect to the commissioners mentioned in the preceding articles; and the decisions and proceedings of the said commissioners, or of a majority of them, made and had pursuant to this convention, shall be final and conclusive.

In faith whereof, we, the undersigned ministers plenipotentiary of his Britannick majesty, and of the United States of America, have signed this present convention, and caused to be affixed thereto the seals of our arms.

Done at London, this 12th day of May, 1803.

HAWKESBURY, [SEAL.]  
RUFUS KING. [SEAL.]

### DOCUMENTS.

*Mr. Madison to Mr. King. Department of State, Washington, July 28, 1801.*

SIR,—By the treaty of peace the mouth of the St. Croix is supposed to be in the bay of Fundy. But as the commissioners have in their decision settled the mouth of that river (called the Schoodick) to be Passamaquoddy Bay, at a place called Joes point, it is left undetermined to which nation the islands in the last mentioned bay and the passages through them into the bay of Fundy, belong. It appears to have been the intention of the two nations, in adjusting their limits at the peace, to make navigable waters, where they were the boundary, common to both, by a divisional line running through the middle of their channels. Hence it is believed, that, if it be true that one of the passages from the mouth of the river intended as the St. Croix, into Fundy bay, be seldom and imperfectly navigable, and the other constantly and completely so, it will be most con-

formable to the treaty of peace to establish it as the boundary. Supposing, on the other hand, that the treaty of peace should be literally executed as far as practicable, and the line drawn from Joes point due eastwardly, Great Britain would be excluded from both passages. At present it is believed that the following description of the passage, to be settled as the boundary, would be satisfactory to both nations: "Beginning in the middle of the channel of the river St. Croix, at its mouth, thence direct to the middle of the channel between Pleasant point and Deer Island, thence through the middle of the channel between Deer Island on the east and north, and Moose Island and Campo Bello Island on the west and south, and round the eastern point of Campo Bello Island to the bay of Fundy." The other western channel has a bar across it, which is dry at low water.

These ideas are thrown out only for consideration. I shall probably have it in my power shortly to transmit you a commission to settle this point, with definitive instructions. Meanwhile you may break the business to the British ministry, but without implicating any fixed mode of settlement.

*Mr. Madison to Mr. King. Department of State, June 8, 1802.*

SIR,—You will herewith receive a commission, giving you powers to adjust by proper stipulations with the British government whatever remains to be decided in relation to the boundaries between the two nations.

In executing the first part of this trust relating to the bay of Passamaquoddy, you will recur to the observations contained in my letter of 28th July last. I refer you, also, to a copy herewith enclosed of a letter from judge Sullivan, heretofore agent of the United States on the controversy regarding the river St. Croix, in answer to some inquiries from me on the subject now committed to you. His information and his reasoning will be useful in the discussion; and to illustrate both I also enclose herewith a copy of the map to which he refers in the beginning of his letter.

The essential objects to be secured to the United States are the jurisdiction of Moose Island, and the common navigation of the bay, and of the channels leading towards the sea between Deer Island and the island of Campo Bello. To the observations of judge Sullivan in support of the rights of the United States, it need only be added, that the outlet through Moose Island being the only adequate communication with the sea from a great and valuable territory

of the United States, they are entitled to the full use of it on that principle as well as on others; and with the less pretext for objection, as the trifling island of Campo Bello is the only territory held by Great Britain on one side of the channel.

In pursuance of the next object, viz. the establishment of boundaries between the United States and New Brunswick on one side, and of Canada on another, it will be proper to provide for the immediate extension of the line which is to run from the south of the St. Croix, and which is represented as necessary to guard against interfering or encroaching grants under American and British authorities. As the course of this line is to be due north, and is to proceed from the point fixed by a survey already made, the running of it will be sufficiently provided for by an appointment of a commissioner by each of the two governments, and an appointment by the two commissioners of a surveyor. In fixing the point at which the line is to terminate, and which is referred to as the northwest angle of Nova Scotia, the difficulty arises from a reference of the treaty of 1783 "to the high lands," which it is now found have no definite existence. To cure this difficulty, no better expedient occurs than to provide for the appointment of a third commissioner, as in article v. of the treaty of 1794, and to authorize the three to determine on a point most proper to be substituted for the description in article II. of the treaty of 1783, having due regard to the general idea that the line ought to terminate on the elevated ground dividing the rivers falling into the Atlantick from those emptying themselves into the St. Lawrence. The commissioners may also be authorized to substitute for the description of the boundary between the point so fixed and the northwesternmost head of Connecticut river, namely, a line drawn "along the said highlands," such a reference to intermediate sources of rivers or other ascertained or ascertainable points to be connected by straight lines, as will admit of easy and accurate execution hereafter, and as will best comport with the apparent intention of the treaty of 1783.

The remaining provision necessary to complete the boundary of the United States, will be a stipulation amending the second article of the treaty of 1783, in its description of the line which is to connect the most northwestern point of the Lake of the Woods with the Mississippi. The description supposes that a line running due west from that point would intersect the Mississippi. It is now well understood that the highest source of the Mississippi is south of the Lake of

the Woods, and consequently that a line due west from its most northwestern point would not touch any part of that river. To remedy this error, it may be agreed that the boundary of the United States in that quarter shall be a line running from that source of the Mississippi which is nearest to the Lake of the Woods, and striking it westwardly as a tangent, and from the point touched along the water mark of the lake to its most northwestern point at which it will meet the line running through the lake. The map in Mc'Kensie's late publication is probably the best to which I can refer you on this subject.

From the mutual and manifest advantage to Great Britain and the United States, of an adjustment of all uncertainties concerning boundary, it is hoped you will find a ready concurrence in all the propositions which you will have to make to them. Should difficulties or delays threaten those which relate to the boundary connecting the Mississippi and the Lake of the Woods, or that connecting Connecticut river and the point to be established as the northeast corner of the United States, it will be proper to separate from these the other subjects of negotiation, and to hasten the latter to a conclusion. With the highest respect and consideration, &c.

JAMES MADISON.

*Judge Sullivan to the Secretary of State. Boston, May 20, 1802.*

SIR,—Having the honour of receiving your letter of the 10th instant, I hasten to communicate to you my ideas of the subject matter of its contents.

When I was under a commission, as agent of the United States, on the controversy with Great Britain, regarding the river St. Croix, I forwarded to the office of the Secretary of State, a map of the bay of Passamaquoddy, of the Schoodick, and of the lines of the whole dispute. That map was accurately and elegantly composed from astronomical observations and actual surveys. As that map is under your eye, there is no need of my sending a fac simile, but I refer you to that for an explanation of this letter.

The treaty of 1783 with Great Britain, evidently contemplates a river, as the St. Croix, which has its mouth in the bay of Fundy. Both rivers claimed by the parties, empty their waters in the bay of Passamaquoddy. The agent of the United States urged the commissioners to settle the boundary through that bay to the sea; because the treaty expressly recognised the mouth of the river, as in the

bay of Fundy, which is a limb of the ocean, and the other bay united with it, might be considered as the river's mouth; but they declined it, on an idea that their commission extended no further than to an authority to find the mouth and source of the river, and that, let which ever would be the river, it had its mouth three leagues from the sea, in Passamaquoddy bay. They therefore limited their decision, on its southerly line, to a point between St. Andrews, and the shore of the United States.

The whole of the waters of Passamaquoddy, eastward and northward of Moose Island, and of the island of Campo Bello, are navigable for vessels of any burden. The channel between Moose and Deer Islands is the best. The channel between Moose Island and the continent of the United States is shoal, narrow, and not navigable for vessels of consequence. That between Campo Bello and the main, called the west passage, is rendered hazardous and dangerous by a bar of rocks, and is so narrow and shoal, that no vessel of considerable size will be risked there, excepting on a fair wind, and at the top of high water. The tides there are exceedingly rapid, and rise nearly fifty feet. Therefore any settlement which would deprive the United States of a free navigation, as far to the eastward and northward as the channel you propose, that is, to the one between Moose and Deer Islands, and north of Campo Bello, would ultimately destroy the important commerce and valuable navigation of an extensive territory within the United States; for as you may observe on the maps, there is no river of consequence between the Schoodick and the Penobscot; and that the waters which issue from numerous and extensive lakes, in the interior parts of the country, running into the sea, as the Schoodick, will give an advantageous and invaluable transportation to the articles of commerce.

Your construction of the treaty of 1783, which renders the waters dividing the nations common to both, (where they are navigable) must be reasonable and just. The English people have, in many instances, practised upon the treaty under such a construction. There has been no interruption to the American navigation in any part of Passamaquoddy bay; but our vessels have proceeded through that bay to the shore of the United States, at and near Moose Island, and have gone into the Schoodick above St. Andrew's point, and anchored on the western side of the channel, where they have discharged their cargoes. There have been some seizures, where goods have been carried from

those vessels over to the English side, but the goods have been condemned, and the vessel discharged. These seizures, being made within the jurisdiction of the United States, as to the vessels, were clearly infractions of the law of nations. There was a seizure lately made of a vessel of one Goddard, of Boston. She was taken from her anchor, on the American side of the channel, in the river established by the commissioners as the St. Croix, and carried over to New Brunswick; but she was acquitted by the court of admiralty, with damages and costs. Campbell, who made the seizure, appealed to England, merely to avoid the costs and damages, where the cause is now depending under the attention of Robert Slade, a proctor, who is the advocate for Mr. Goddard.

There is a clause in the treaty that the United States shall comprehend the islands within twenty leagues of any of the shores of the United States, and lying between lines drawn due east from the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, as they shall respectively touch the bay of Fundy, and the Atlantick ocean. This circumstance, that the mouth of the St. Croix is settled to be between St. Andrews point on the east, and the American shore on the west, three leagues within the island of Campo Bello, draws this consequence to the treaty, that nearly all the islands in Passamaquoddy Bay are within the United States by the above provision in the treaty, unless they are taken out by an exception, which I shall presently notice. A line due east, (as you will see on the plan,) from the Schoodick mouth at St. Andrews point, takes in nearly all the bay. A line south,  $67^{\circ}$  east, will go to the north of Campo Bello, and take two thirds of Deer Island on the west. A south east line from the middle of the Schoodick mouth, passes on the channel between Moose and Deer Islands, and through the centre of Campo Bello. The consequences attached to this provision may be in some measure controlled by an exception annexed to it, in these words, "excepting such islands as now are, or heretofore have been, within the limits of the province of Nova Scotia."

The island of Campo Bello is confessedly within the exception, and therefore it may be said, that the principle of common privilege to navigable waters will not give our nation a right to a navigation northward of, and between that and the other islands in the bay, because that they, being all within the same exception, the right of a common navigation in both nations may not extend to the waters between that and them. But the answer to this is, that the

clause establishes the jurisdiction of the United States by lines which clearly include all the islands in the bay of Passamaquoddy, and all within the bay of Fundy comprehended to the south of the east line drawn from St. Croix; while the exception can extend only to the islands formerly within the jurisdiction of Nova Scotia, inclusive of the privileges necessary to the occupancy of them. The principle, therefore, of the common right to navigation, or navigable waters which divide two nations, cannot apply here; because in that case, the line of national jurisdiction seems to be settled on the channel; but here, in this case, the jurisdiction is definite, express, and ceded, according to the lines agreed on as above described.

The ancient charter of Nova Scotia to sir William Alexander, in 1638, included all the country from the Kennebeck to the bay of Chaleur. The treaty cannot mean by the expression "heretofore within Nova Scotia," all the islands in that charter. If it means the islands which were within a more recent description of it, where the boundary westward was the St. Croix, excluding the territory of Acadia, which was placed under the jurisdiction of Massachusetts by the charter of that province in 1692, and bounded on that river, the river Schoodick being now the established St. Croix, there can be no question, in regard to Massachusetts extending to the channel where it joins that river. But Moose Island, which I have described before, lies two leagues below what the commissioners made the mouth of the St. Croix, and very near the American shore. This was never granted by the crown of England, or by the government of Nova Scotia, before the treaty of peace; nor was there ever an occupancy of it by subjects acknowledging the authority of Nova Scotia; nor did the province ever attempt to exercise authority there. Long before the revolutionary war, it was in the occupancy of people of and from the late province of Massachusetts Bay. The soil has, I believe, been granted by that province or by the state, since the revolution, to the people who had it in possession. I do not know the date of the grant. There have been, as I am informed, recent grants by the province of New Brunswick of that island; but no formal claim on the part of the English nation has been made to it. The grantees of that province, who have speculated on the pretended right of the English nation, have excited civil officers, under the authority of the province of New Brunswick, to attempt to execute precepts there. These attempts were repelled, and I have not heard that they have been recently renewed. Should the jurisdiction of that island be found within the English authority, there can be no doubt

how the right of property would be settled. This renders the dispute of consequence to the commonwealth of Massachusetts in a pecuniary point of view.

If the argument above stated does not prove that the jurisdiction of the United States is extended to all the waters of Passamaquoddy Bay, but that the treaty leaves the navigable waters of the same, which form the natural boundaries, common to both it is of great consequence that any claim made under the crown of the English empire to Moose Island should be subverted. But if their having the island under the reservatory exception does not deprive the United States of the jurisdiction on all the waters southward of the east line drawn from the mouth of the Schoodick, the consideration of the property alone gives consequence to the question.

The channel where the waters more directly issue from the Schoodick to the bay of Fundy, between Moose and Deer Islands, and between Deer Island and Campo Bello, as described in your letter of instructions to the minister, is quite adequate to all navigation of our country.

You mention a resolve of the legislature, wherein the subject of the navigation in Passamaquoddy bay is mentioned. I have attended to a resolve of the tenth of March, which proposes that the governour should request the President of the United States to take measures for settling the disputed jurisdiction to certain islands in Passamaquoddy bay ; but I do not know of any dispute in that bay as to islands, excepting what I have stated as to Moose Island.

The settlement and plain establishment of a line from the head or source of the Cheputnatecook, which is the source of the St. Croix, and empties its waters through a long chain of lakes into the Schoodick, has become necessary, because that Massachusetts is making grants of the lands in that quarter, and the province of New Brunswick is in the same practice, controversies may be created by interfering locations in pursuance of or under pretence of those grants. Such controversies can have no guide to their adjustment, excepting lines drawn through a vast extent of wilderness, where many known and unknown causes will affect the magnetick variations. These disputes on national, or even colonial, or state jurisdiction, are not easily settled when they are connected with private claims.

By the treaty of peace it is provided that the boundaries shall be, "from the northwest angle of Nova Scotia, viz: that angle which is formed by a line drawn due north, from the source of the St. Croix, to the high lands; along the high lands which divide those rivers that empty themselves into the

river St. Lawrence from those which fall into the Atlantick ocean, to the northwesternmost head of Connecticut river."

You will see by the maps of that part of the country, that the line which runs north from the source of the St. Croix crosses the river St. John a great way south of any place which could be supposed to be the high lands; but where that line will come to the northwest angle of Nova Scotia, and find its termination, is not easy to discover.

The boundary between Nova Scotia and Canada, was described by the king's proclamation in the same mode of expression as that used in the treaty of peace. Commissioners who were appointed to settle that line have traversed the country in vain to find the high lands designated as a boundary. I have seen one of them, who agrees with the account I have had from the natives, and others, that there are no mountains or highlands on the southerly side of the St. Lawrence and northeastward of the river Chaudiere. That from the mouth of the St. Lawrence to that river there is a vast extent of high flat country, thousands of feet above the level of the sea, in perpendicular height; being a morass of millions of acres, from whence issue numerous streams and rivers, and from which a great number of lakes are filled by drains. That the rivers originating in this elevated swamp, pass each other wide asunder many miles in opposite courses, some to the St. Lawrence and some to the Atlantick sea.

Should this description be founded in fact, nothing can be effectively done, as to a Canada line, without a commission to ascertain and settle the place of the northwest angle of Nova Scotia, wherever that may be agreed to be. If there is no mountain, or natural monument, an artificial one may be raised. From thence the line westward, to Connecticut river, may be established by artificial monuments, erected at certain distances from each other; the points of compass from the one to the other may be taken; and the ascertaining the degree of latitude, which each one is placed on, from actual observation, may be very useful. Though there is no such chain of mountains, as the plans or maps of the country represent under the appellation of the highlands, yet there are eminences from whence an horizon may be made to fix the latitude, from common quadrant observations.

In the description of the morass, which is said to crown the heights between the United States and Lower Canada, it ought to have been noticed, that though those swamps are vastly extensive, yet in the acclivity from the Atlantick to their highest elevation, as well as in their declivity to the St. Lawrence, great tracts of valuable country are interspers-

ed. On the banks of the river Chaudiere, and perhaps on the banks of the other rivers running to the St. Lawrence, the settlements are approaching fast towards those of the United States. This circumstance will soon render an established line of national jurisdiction absolutely necessary.

Should there be any thing within my power which will give aid to the government on this occasion you will please to command me. I am sir, &c. JAS. SULLIVAN.

*Extract of a Letter from the Secretary of State to Rufus King, Esq. Minister Plenipotentiary of the United States in London. Department of State, Dec. 16, 1802.*

“By the communications of the 6th day of October, received from Mr. Gore, it appears that the proposition for adjusting the boundary in the northwest corner of the United States is not relished by the British government. The proposition was considered by the President as a liberal one, inasmuch as the more obvious remedy for the error of the treaty would have been by a line running due north from the most northern source of the Mississippi, and intersecting the line due west from the Lake of the Woods; and inasmuch as the branch leading nearest the Lake of the Woods may not be the longest or most navigable one, and may consequently favour the wish of the British government to have access to the latter. The proposition for these reasons would not have been made but from a desire to take advantage of the present friendly dispositions of the parties, for the purpose of closing all questions of boundary between them. As it is not probable, however, that the settlement of this particular boundary will for some time be material, and as the adjustment proposed is not viewed by the British government in the same light as by the President, it is thought proper that it should not for the present be pursued; and that the other questions of boundary should be adjusted with as little delay as possible. In the mean time further information with respect to the head waters of the Mississippi, and the country connected with them, may be sought by both parties; it being understood that the United States will be as free to be guided by the result of such inquiries in any future negotiation as if the proposition above referred to had never been made by them. Should it be most agreeable to the British government to have an early survey instituted with a view to a proper boundary in this case, the President authorizes you to concur in such an arrangement.”

*London, May 13, 1803.*

SIR,—I have the honour to transmit herewith the convention which I yesterday signed in triplicate with lord Hawkesbury relative to our boundaries.

The convention does not vary in any thing material from the tenour of my instructions. The line through the bay of Passamaquoddy secures our interest in that quarter. The provision for running, instead of describing, the line between the north west corner of Nova Scotia and the source of Connecticut river, has been inserted as well on account of the progress of the British settlements towards the source of the Connecticut, as of the difficulty in agreeing upon any new description of the manner of running this line without more exact information than is at present possessed of the geography of the country.

The source of the Mississippi nearest to the Lake of the Woods, according to Mackenzie's report, will be found about twenty-nine miles to the westward of any part of that lake, which is represented to be nearly circular. Hence a direct line between the northwesternmost part of the lake and the nearest source of the Mississippi, which is preferred by this government, has appeared to me equally advantageous with the lines we had proposed. With perfect respect, &c.

RUFUS KING.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
FRENCH SPOILIATIONS IN SPANISH PORTS. DEC. 21, 1803.

[Message, &c. recalled, and copy not to be found. It could not, however, be published, as negotiations on the subject are still pending.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO WAR WITH TRIPOLI. JAN. 13, 1806.

ACCORDING to the request of the Senate of December 30th, I now lay before them the correspondence of the naval commanders Barron and Rodgers; and of Mr. Eaton, late consul at Tunis, respecting the progress of the war with Tripoli antecedent to the treaty with the bey and regency of Tripoli, and respecting the negotiations for the same; and the

commission and instructions of Mr. Eaton, with such other correspondence in possession of the offices as I suppose may be useful to the Senate in their deliberations upon the said treaty.

The instructions which were given to Mr. Lear, the consul general at Algiers, respecting the negotiations for the said treaty accompanied the treaty and the message concerning the same, and are now with them in possession of the Senate.

*So much of these papers has been extracted and communicated to the House of Representatives as relates to the principles of the co-operation between the United States and Hamet Caramalli, which is the subject of a joint message to both houses of Congress bearing equal date with the present : and as those now communicated to the Senate comprehend the whole of that matter, I request that they may be considered as comprising the documents stated in that message as accompanying it. Being mostly originals or sole copies, a return of them is requested at the convenience of the Senate.*

We have no letter from Mr. Lear respecting Tripoline affairs of later date than that of July 5th, which was transmitted to the Senate with the treaty, nor consequently any later information what steps have been taken to carry into effect the stipulation for the delivery of the wife and children of the brother of the reigning bashaw of Tripoli.

TH: JEFFERSON.

[The documents transmitted in the foregoing message are to be found in that of same date, vol. v. page 159; and Feb. 4, 1806, vol. v. page 392.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES COMMUNICATING LETTER FROM UNITED STATES MINISTER AT LONDON.  
JAN. 17, 1806.

[Letter not to be published. See vol. v. page 320.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE,  
RELATIVE TO WAR WITH TRIPOLI. FEB. 4, 1806.

I now transmit the letters desired by the resolution of the Senate of January 20, so far as they exist in the offices, to wit:

Extract of a letter from the Department of State to Mr. Eaton of May 20, 1801.

The letter from Mr. Cathcart to Mr. Eaton, dated Leghorn, June 15, 1801, is not in the offices, but the substance of it is supposed to be recited in those of Mr. Cathcart to the Secretary of State, of August 15, 1802, and July 2, 1801, extracts of both of which are transmitted.

The letter of Mr. Eaton of September 5, 1801, supposed to be that intended by the Senate, as it answers their description. There is no letter of his of September 15.

Extract of a letter of William Eaton to the Secretary of State, December 13, 1801.

Extract from captain Murray's letter of August 18, 1802.

Extract of a letter from Mr. Cathcart to the Secretary of State of August 25, 1802.

Extract of a letter from Mr. Morris to the Secretary of the Navy, March 30, 1803.

The letter from the Swedish admiral to Hamet bashaw designated in the resolution of the Senate is not in possession of the Executive.

The extracts above mentioned give the whole matter contained in the respective letters relating to Hamet Caramalli. The parts omitted are on subjects entirely foreign to what concerns him.

TH: JEFFERSON.

[The documents transmitted in the foregoing message are to be found in that of same date, vol. v. page 392.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO SHIP NEW JERSEY. MARCH 5, 1806.

ACCORDING to the request of the Senate, expressed in their resolution of the third instant, I now transmit the extract of a letter from the Secretary of State to the minister plenipotentiary of the United States at Paris, the answer to that letter, and two letters from Henry Waddell, a citizen of the United States, relative to the interference of the said minister in the case of the ship New Jersey, and to the principles alleged to have been laid down by him on that occasion.

There are in the office of the department of state several printed memorials in this case, by the agent of those interested in the ship, which are voluminous, and in French. If these be within the scope of the request of the Senate,

the printed copies can be sent in immediately ; but if translations be necessary some considerable time will be requisite for their execution. On this subject any further desire which the Senate shall think proper to express shall be complied with.

TH : JEFFERSON.

*Mr. Madison to Mr. Armstrong. Department of State, Aug. 25, 1805.*

SIR,—It is represented by the parties interested in the ship *New Jersey* and cargo, for which indemnity is claimed under the late convention with France, that a disallowance of the claim is likely to proceed, from an idea that insurers do not, in such cases, take the place of the insured.

As the convention has provided for its own exposition and execution, it has been thought best that these should be left as much as possible to their own course ; and an interposition of any kind in the present instance would be the rather declined, as it cannot be guided by communications from yourself relative to the nature of the difficulties which have arisen. Yet as the interest which the parties have at stake renders them particularly anxious and urgent on the occasion ; and as it cannot be injurious, and may be agreeable, to yourself to know the sentiments of the President on the question, whether the title of the insurers accrues to the insured, if that naked question be indeed the source of the difficulties, I am authorized to suggest for your information, that he considers the general principle on which the question turns as supporting the claims of the American underwriters to the benefit of the convention, where they have paid the loss of the original owners, citizens of the United States. I have the honour to be, &c.

JAMES MADISON.

*Extract of a Letter from General Armstrong to the Secretary of State. November 26, 1805.*

“I HAD the honour within the last week of receiving your letter of the 25th of August, expressing the solicitude of the parties interested in the ship *New Jersey* and cargo, lest their claims should be rejected on the idea that the rights of the insured did not pass to the insurers,” and communicating also the opinion of the President, that “American underwriters, who had paid the loss to the original owners, citizens of the United States, were entitled to the benefits of the treaty of 1803.”

In my next despatches I shall furnish you with documents

from which you will see that the difficulties in this case have, in no stage of it, arisen from the causes to which they have been ascribed; that its admission by the American board was long suspended under colonel Mercer's objections, that "no evidence had been produced of the insolvency of the captors;" that its rejection by the council general of liquidations proceeded from the belief that the ship and cargo were partially or altogether British property, and from certain other causes: and that when this belief concerning the national character of the property was done away by the production of certain policies of insurance, which had been effected in different parts of the United States, (but which till then had been carefully kept out of sight) the claim, so far from being opposed on the principle that "the rights of the insured did not vest in the insurers," or indeed on any other principle, was, on my suggestion, sent back to the council, relieved from the first and apparently the principal objection, and left subject only to the "other causes," mentioned in the rejecting arret of the 28th of Frimaire. These "other causes," are fully exhibited in the report of the director of the 4th division, dated on the 15th Germinal, and may be digested into the following heads:

1st. That the judgment of the 17th Prairial, year 6, pronouncing the confiscation of the New Jersey and cargo, is still subsisting, in as much as it has not been annulled by the decree of the council of prizes, which directs only the restitution of the sum deposited by the owners with general Hedouville.

2d. That the claimants, having neglected to prosecute their appeal within six years after the capture, were precluded by the laws of France from a right of appealing.

3d. That the New Jersey, not having a role d'équipage, as provided by the treaty of 1778, was excluded from the provisions of the 4th article of the treaty of 1800.

4th. That the captain and agent of the privateer not having been heard in their defence, nor even summoned to appear before the tribunal, the decree of the council of prizes was illegal.

5th. That no evidence having been produced of the abandonment of the ship and cargo to the underwriters, and the agents having even denied the right of the government to question them with regard to an abandonment of the property, and having besides acknowledged, that the original owners or a part of them had acquired the New Jersey by a new title, by yielding to the underwriters "un droit convenable de reprise dans le depot," it may be fairly inferred

that the loss never was paid by the insurers, and that the receipts (which, by the way, do not correspond in number with the policies) are merely fictitious; and

6th. That were it in proof that the owners had abandoned, and that the underwriters had paid, still the claim of the latter could not be admitted, inasmuch as it could not now be liquidated under the rules prescribed by the treaty, the American commissioners having no longer an existence.

You will readily perceive that in all this there is not a single syllable pointed at the rights of insurers, who have paid the loss to the original owners. It only remains for me, therefore, to show that in no after act, either of the council or of Mr. Marbois and myself, was the broad principle which has given so much alarm to our underwriting citizens, or even the qualified one to be found in the President's opinion, adopted or applied to the case of the New Jersey. The report, of which I have already given you the substance, not having been agreed to by all the members of the council, and the liquidator general not choosing to decide the difference, transmitted the case a second time to the treasury, with a wish that Mr. Marbois and myself might determine it. We complied with this wish; we did determine it, and admitted it for its full proportion of the marginal fund. It is true that Mr. Marbois and I differed somewhat concerning this proportion: He would have given 333,000 francs, whereas I thought that 300,000 were quite as many as fell to its share; and that you will think as I did I have no doubt, when I inform you, that there are claims amounting to more than three millions, as sound in point of principle, less objectionable in point of form, and better recommended by the pecuniary circumstances of the claimants, for which I have not yet got a single sous."

*Copy of a Letter from Henry Waddell to Messrs. Nicklin and Griffith. Philadelphia, Feb. 24, 1806.*

AGREEABLY to my promise I now state, in writing, some circumstances with my ideas relative to the case of the New Jersey, at the same time in substance the observations made by me on the subject since my return to America; in the course of which I submit to your candour how far they may appear hostile to you or your claim. As yet you have only the memoir of your agent in France, the object of which no doubt was to induce a belief, on your part, that the rejection of the claim was owing to interference of the American minister, and thereby entitle you to a demand against the Ame-

ican government. This, however, on an impartial consideration of the subject, will I think appear otherwise, and I believe you only require a correct statement of facts to remove the impressions made by that memoir.

No doubt can arise on the illegality of the capture, but it is supposed the arrangement made between your agent, Dr. Stephens, and general de Haudeville, materially changed the ground on which you originally stood, and much prejudiced your claim against the captors. It is also to be lamented that you suffered the time limited by law to pass over without prosecuting the appeal, or complying with the formalities always considered indispensable in such cases; for in vain might Mr. Dupont say that the law of the 4th Prairial, 6th year, corresponding to May, 1798, did not extend to the French colonies; with the same propriety you might have been referred by the French government to the colony where the capture and arrangement with general de Haudeville was made for payment. These facts I mention in no other view than to show, that where appeals are made, and other legal formalities complied with, not only in prize causes but in every other, always have a preference; and on that ground, was there no other, the American and French ministers might suppose they have granted you a large proportion in allowing your claim out of the Louisiana fund, three hundred thousand francs; and your agents must also have thought so, or I presume they would not have given a receipt in full, thereby debarring you from any further demand.

I am of opinion, nay I speak with confidence, that our government wished to give a preference to prize causes, but by the convention of 1803, the appropriations are entirely left to the French government, who have generally preferred such claims as were embraced by the convention for supplies made them by American merchants. This arrangement left a balance of the Louisiana fund, but not sufficient to satisfy all the prize causes; for there are now on the dockets of the tribunal of prizes many cases, although not positively decided on, the formalities relative to which, so far as they go, have at least been legally complied with; and it is a fact which ought not to escape attention, the New Jersey has been preferred and obtained judgment, when the others, with more form, have not.

The American minister has had a most difficult task to execute; for when he arrived in France there were not fourteen hundred thousand francs unappropriated, with de-

mands against that sum for many millions. He therefore proposed that all cases should be liquidated by being placed on the same footing; but the French government by the convention having reserved to itself the right of distributing the fund appropriated for the payment of American claims, he could only act in conjunction with the French minister of the publick treasury, both of whom have invariably aimed at impartiality in disposing of this small balance among the different claimants.

It is a very singular assertion of Mr. Dupont, that the French government would have admitted the claim for the whole amount; for had he supposed so, why not have returned as he could, and had a right to, the bureau of liquidation for a revision of the claim; but no, his doubts of receiving any thing are evident from his own statement, particularly as the minister of the publick treasury only thought of paying one third; but afterwards, on reconsideration, was of opinion with general Armstrong that three hundred thousand francs was a more equal proportion; and the sum has been paid under the impression only that no sort of discrimination should be made between the owner and underwriter; and on this occasion I take it on myself to assert. that general Armstrong acted under no other idea.

The letter said to be written by general Armstrong I have understood was communicated confidentially to your agents, after having written a second, placing the claim on a better footing than it was originally; and as to the effect to which Mr. D. attaches so much importance, it never produced any; but had any effect been produced by it, this was completely done away before your agents knew of its existence; therefore the publication of this letter in Mr. D's pamphlet is too palpable not to be understood by every man who judges without prejudice. But let us suppose, for a moment, the French government even contemplated paying the whole amount of your claim out of the Louisiana fund, which does not appear to have been the case, general Armstrong would have been extremely reprehensible had he assented to it; for it must have been almost to the entire exclusion of every other claimant.

When I left Paris, general Armstrong had been confined to his bed for some weeks, which accounts for his not taking notice of the publication in question; and although I disapprove of the letter, I am very certain it never did in the slightest degree injure your claim.

You have now, gentlemen, the impressions of my mind entirely free from prejudice; and I beg to avail myself of

this opportunity of assuring you that so far from ever discovering any thing hostile or unfriendly towards you, that I have uniformly, as often as your house has been the subject of conversation, spoken of it as among the most respectable of our country.

*Mr. H. Waddell to James Madison, Esq. Philadelphia, February 26, 1806.*

SIR,—When in Washington I mentioned to your excellency that my view of the case of the New Jersey was very different from the general representations on that subject; and since my arrival here, having given my opinion very freely to the same effect, Messrs. Nicklin and Griffith requested me to state in writing my ideas on the subject. I accordingly wrote them a letter, of which I enclose your excellency a copy. In so doing I have, nor can have, any other intention than to state facts which have been withheld, or mutilated; but as I knew the abuse I should incur by its publication, I merely enclose it for your excellency's satisfaction until you receive more complete information on the subject from France. I have the honour to be, &c.

HENRY WADDELL.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE  
RELATIVE TO SHIP NEW JERSEY. MARCH 7, 1806.

ACCORDING to the request of the Senate of yesterday I now transmit the five printed memorials of the agent for the ship New Jersey, in the one of which marked B, at the 9th page, will be found the letter relative to it from the minister plenipotentiary of the United States at Paris to the French minister of the treasury, supposed to be the one designated in the resolution. We have no information of this letter but through the channel of the party interested in the ship, nor any proof of it more authentick than that now communicated.

TH: JEFFERSON.

The following *extract* from the memorial, transmitted with the foregoing message, contains a copy of the *letter* therein referred to.

*The undersigned Minister of the United States to the Minister of the Publick Treasury. Paris, Dec. 5, 1804.*

SIR,—I had the honour of receiving your letter on the subject of the claim made by Messrs. Nicklin and Griffith, of Philadelphia.

With regard to the facts which you alledge, viz. that this is an English house, doing only business for English merchants; that the ship New Jersey was loaded from the English factories at Canton; and that she belonged to English merchants; I know nothing from any documents in my possession. The only written evidence applying to this case within my reach is the record of the American commission to which you allude, and which is directly adverse to the suggestion you have made; for I find that the commissioners united in admitting the New Jersey to have been American property; and that the protest of one of the members of that board against the ultimate decision of the others, was founded, not on the fact of her being English property, but on that of the claimants not having pursued their remedy against the captors to its proper consequence, viz. to an assurance that they were unable to pay.

On the other hand, though I have, as already stated, no written document, I have had much verbal information, which furnishes strong presumptive evidence of two facts: 1st. That the Jersey was partially or altogether English property; and 2d. That whether American or English, she was insured; and that no loss was sustained by the ostensible claimants.

The circumstances which render the first of these facts probable are, that one, if not both, the partners of this house were recently, before the fitting out of the ship Jersey, the clerks and carriers of pattern cards for manufacturing houses in Great Britain; that they have been notoriously the commission agents of such houses since; that they were not in a condition to fit out a ship of the value of the New Jersey with their own means; and that if they had assistance it must have been derived from British sources, as it has not been even pretended that they have had any American support.

The circumstance rendering the second fact probable is in the knowledge of all men acquainted with commerce as conducted in the United States, viz. that much property committed to the seas on long voyages, and in a state of war, is always insured. Whence the probability that the present claim is pursued, not on account of the ostensible owners, but of the insurers. If these insurers are Americans they have been amply paid in their profits, which in 1797 were equal to 20 per cent. per annum on their capital; and if English, they cannot come within the provisions of the treaty.

Such is the amount of the verbal information I have received in this case, which at the same time I think it necessary to observe has been received without the sanction of an oath. I am, sir, &c.

JOHN ARMSTRONG.

M. Marbois, Min. Publick Treasury.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS,  
RELATIVE TO SPANISH INNOVATIONS. MARCH 19, 1806.

It was reasonably expected that while the limits between the territories of the United States and of Spain were unsettled, neither party would have innovated on the existing state of their respective positions; sometime since, however, we learnt that the Spanish authorities were advancing into the disputed country, to occupy new posts, and make new settlements. Unwilling to take any measure which might preclude a peaceable accommodation of differences, the officers of the United States were ordered to confine themselves within the country on this side of the Sabine river, which, by delivery of its principal post Natchitoches, was understood to have been itself delivered up by Spain; and at the same time to permit no advance post to be taken, nor armed men to remain within it. In consequence of these orders, the commanding officer at Natchitoches, learning that a party of Spanish troops had crossed the Sabine river, and were posting themselves on this side the Adais, sent a detachment of his force to require them to withdraw to the other side of the Sabine, which they accordingly did.

I have thought it proper to communicate to Congress the letters detailing this incident, that they may fully understand the state of things in that quarter, and be enabled to make such provision for its security as in their wisdom they shall deem sufficient.

TH: JEFFERSON.

*Major Porter to Captain Turner. Natchitoches, February 1, 1806.*

SIR,—You are immediately to proceed, with the detachment now under your command, to the neighbourhood of Adais, where, should you fall in with a stationary party of armed Spaniards, you will command them, or any other armed party of foreigners which you may discover, to withdraw beyond the Sabine river. In case of their refusing to comply, you are to treat them agreeably to the orders of the Secretary of War, (a certified extract of which accompanies these instructions) as far as relates to the pursuit, capture, and detention, of invaders or aggressors; and avoiding the spilling of blood, but when these orders cannot otherwise be executed. You are to patrol, if practicable, the country between this and Sabine. Be on your guard against surprise, and

communicate to me by express from time to time any occurrence worthy of note.

M. PORTER,  
Major Artillerists Commanding.

*Captain Turner to Major Porter. Adais, Feb. 6, 1806.*

SIR,—After a tedious march we arrived in front of the Spanish post yesterday morning about half past eleven o'clock. Found the dons in some confusion in consequence of their patrolle having discovered us an hour before, (owing to our pilot bringing us in sight of the road.) I took a position which would have carried their camp if there had been ten times their number, which was twenty. They saddled, mounted, and formed. At the bayou le Glese, their patrolle or picket hailed our vanguard, and demanded the reason we were violating or invading his majesty's territory. I requested him to withdraw with his guard inside his camp, where I would presently be and inform his officer of my business. He implicitly obeyed. Upon my arrival at my position, I sent Mr. Duforest to tell the officer I wished a conference. Mr. Duforest was informed, in consequence of some information the corporal of the advanced guard had given, the officer had gone down the road to meet me. I waited some time his return, but not seeing him, I suspected he had purposely put himself out of the way to gain time. I therefore, after sending another message to the camp, formed my men and marched through a thicket within forty yards, where I halted, and told the non-commissioned officer commanding, that I should wait fifteen minutes for his officer, provided he made no movements in the interim. The officer soon after appeared, when I delivered him my commands. He readily agreed to abandon his position; but he said he could go no further than a creek, *San Jose*. After a good deal of altercation, he consented to move to the other side of the Sabine, and I gave him three hours to prepare to march. He begged I would not insist upon his crossing the Sabine within five days, alleging that in the miserable condition of his horses, it would be impossible without losing them, and requested that he might be allowed to look up some that were missing. I replied that after reaching the other side the Sabine, he might send in two or three of his men without arms to hunt them; and that he must get them as soon as possible. He replied he would, but it would necessarily take him four or five days. This morning I commenced my march for *La Tran*, and fell in with him in three miles. I signifying my surprise at his being no farther, he made the old excuse of

the impossibility of his horses to travel faster ; and observed that he had been detained in trying to find some of his horses, two of which he had got, and four were missing. Not thinking it proper to rely exactly again on his word, after falling in with him, I made him subscribe to the enclosed terms (which I hope may meet your approbation) and shall follow his footsteps till my provisions are out. Respectfully,  
yours, &c. E. D. TURNER.

*At the Adais, February 6, 1806.*

I JOSEPH MARIA GONZALEZ, ensign, commandant of his most catholick majesty's troops on this side of the river Sabinas, hereby have agreed with captain Edward D. Turner, captain in the United States army, to return all said troops of his catholick majesty to the other side of the said river Sabinas, as soon as my horses will permit it, or in five days, or at farthest six, and to take my march this day. And I also oblige myself not to send any patroles on this side of the river Sabinas.

Ensign JOSEPH MARIA GONZALES.

Witness, JOHN V. DUFOREST.

*Extract of Letter from Major Porter to the Secretary of War. Natchitoches, February 8, 1806.*

SIR,—Your letter of the 20th November was received on the 24th ultimo ; and the request therein mentioned was without loss of time forwarded to the commandant of Nacogdoches, from whom I received on the 4th instant an answer in which he refused to give the assurance required.

Deeming this reply decisive, I immediately despatched captain Turner with sixty men to remove a party of Spaniards that had, a few days before, past and taken post on this side of the Adais ; and to patrol the country between this post and the river Sabine. The former he easily accomplished, and is now performing the latter.

The report of preparations making by our Spanish neighbours for war, are various ; but generally agree that a considerable number of troops are progressing from the interior to the eastward ; that near three hundred of them were a few weeks since at the great crossing of the Trinity, where there were near two hundred beeves, five hundred horses, and a considerable magazine of flour.

That they have ten guns now mounting at Nacogdoches, where most of them have been lately received ; and that immediately after lieutenant Piatt, the bearer of my letter

to the commandant of Nacogdoches, left that place on his return, a Spanish officer was despatched to bayou aux Pierre to impress on the minds of the inhabitants of that settlement, the allegiance that they owed to his catholic majesty ; ordered them to join his standard whenever required, and informed them that the red river would be the boundary line between the Spanish country and the United States.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, COMMUNICATING LETTER FROM UNITED STATES MINISTER AT LONDON. MARCH 24, 1806.

[Letter not to be published. See vol. v. page 451—2.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE RELATIVE TO EX-BASHAW OF TRIPOLI. NOVEMBER 11, 1807.

SOME time had elapsed after the receipt of the late treaty between the United States and Tripoli before the circumstance drew particular attention, that although by the 3d article the wife and children of the ex-Bashaw were restored to him, this did not appear either to have been done or demanded. Still it was constantly expected that explanations on the subject would be received. None, however, having arrived when Mr. Davis went as consul to Tripoli, he was instructed to demand the execution of the article. He did so ; but was answered by the exhibition of a declaration, signed by our negotiator the day after the signature of the treaty, allowing four years for the restoration of the family. This declaration, and the letter of Mr. Davis stating what passed on the occasion, are now communicated to the Senate. On the receipt of this letter I caused the correspondence of Mr. Lear to be diligently re-examined, in order to ascertain whether there might have been a communication of this paper made, and overlooked or forgotten. None such, however, is found. There appears only, in a journalized account of the transaction by Mr. Lear, under date of June 3, a passage intimating that he should be dis-

posed to give time rather than suffer the business to be broken off, and our countrymen left in slavery ; and again, that on the return of the person who passed between himself and the bashaw, and information that the bashaw would require time for the delivery of the family, he consented and went ashore to consummate the treaty. This was done the next day ; and being forwarded to us as ultimately signed, and found to contain no allowance of time, nor any intimation that there was any stipulation but what was in the publick treaty, it was supposed that the bashaw had in fine abandoned the proposition ; and the instructions before mentioned were consequently given to Mr. Davis. An extract of so much of Mr. Lear's communication as relates to this circumstance is now communicated to the Senate, the whole of the papers having been laid before them on a former occasion. How it has happened that the declaration of June 5, has never before come to our knowledge cannot with certainty be said. But whether there has been a miscarriage of it, or a failure of the ordinary attention and correctness of that officer in making his communications, I have thought it due to the Senate, as well as to myself, to explain to them the circumstances which have withheld from their knowledge, as they did from my own, a modification which had it been placed in the publick treaty would have been relieved from the objections which candour and good faith cannot but feel in its present form.

As the restoration of the family has probably been effected, a just regard to the character of the United States will require that I make to the bashaw a candid statement of facts ; and that the sacrifices of his right to the peace and friendship of the two countries by yielding finally to the demand of Mr. Davis, be met by proper acknowledgments and reparation on our part.

TH: JEFFERSON.

*G. Davis, Esq. to Mr. Madison. Tripoli, June 2, 1807.*

SIR,—I arrived at this place on the 7th ultimo, and on the 10th communicated to the minister of foreign affairs, Sidi Dghies, my orders relative to the execution of the 3d article of the treaty. He expressed some surprise at the demand, and instantly handed me the secret article (of which I have the honour to enclose you a copy) and promised to take an early opportunity of acquainting the bashaw.

On the morning of the 11th the minister of marines (brother-in-law to the bashaw) waited on me at an early hour, and asked me in the name of his excellency to repeat what

I had stated the day before to the minister Sidi Dghies. He said it was so strange that his master supposed there must be some misunderstanding; that every body knew the opposition which was made to that article on the part of the bashaw, even in the form it stood, and that my government must be convinced that time had not lessened the difficulties annexed to its execution. That it appeared very inconsistent for me to present assurances of our friendship, while I came instructed to violate the most sacred article of our treaty. I informed him that I only wanted an answer to the demand I had made, by which my future conduct would be regulated; and as his comments could not possibly affect the measures my government had resolved to take, they might very well be spared.

When he retired I waited on the minister Sidi Dghies, who had not received any answer from the bashaw. His impressions were that my exertions to obtain the release of the family would prove fruitless, and suggested the propriety of my acquainting the government with the nature of the secret article, which he supposed, from my instructions, they must be ignorant of. I expressed the wish of having an early answer, and informed him that as the line of conduct I was to pursue, in case of a refusal, had been directed by the government, a delay of that kind was very unnecessary; and that he might not be aware of the consequences which might result from the inexecution of the treaty. He requested me to call again the next day.

On the morning of the 12th we again waited on the minister, who received us with a forced gayety, and after some desultory conversation asked if I was not of his opinion that it would be better to wait an answer from the President than to carry things to a serious extreme; that the bashaw appeared to be much displeased, and very unhappy, and certainly would not make such a sacrifice for nothing.

I asked if that was to be considered as a definitive answer from his master; he hesitated, and evaded an answer. I assured him that it was unnecessary for us to speak at a distance; that I requested an immediate answer from the bashaw; that the brig could be detained no longer; and that the family or myself must embark on board.

A short time after we had left him he sent for Mr. Ridgely, and requested I would join him in half an hour. On entering his apartment I found him walking with extreme agitation. He requested Mr. Ridgely to explain to me the object of this visit. Mr. Ridgely prepared his observations by saying, that he was fully satisfied of the minister's sincerity.

ry, and hoped it would influence my conduct. The minister told him he feared for his life, and explained some traits in the bashaw's character, and reasons which made him so tenacious on this point; that his friendship for the exile was known, and had drawn upon him great and powerful enemies; that my persevering so warmly in the demand might induce the bashaw to believe that he (the minister) supported rather than opposed me. That he would make a considerable pecuniary sacrifice to obtain my wishes; and, that it might be successful, solicited me to ask the family as a favour rather than demand it as a right. The divan had been called, and I would be received by them at the castle. That he would be the interpreter opposing me warmly in *Lingua Franca*, but would take a very different part in *Arabick*; and concluded with some warm ejaculations for the happy termination of the affair.

I thanked the minister for his friendship, and assured him of my compliance with his wishes; that his confidence in me induced me to add that the expectations of my government were not restricted to the delivery of the family; that I was instructed to demand an establishment for them. He said, if the first was granted, there would be no great difficulty in the second to a moderate degree.

At half past nine, P. M. I was sent for to the castle, where we found the divan assembled, when my orders were again made known; and each in his turn offered his comments on the secret article; and after considerable discussion the bashaw addressed himself to me, and requested my opinion on the line of conduct he ought to pursue; that he had strong reasons for wishing to retain the family, and that he had justice on his side. I told his excellency that I could foresee no possible ill which could result to him from their immediate delivery; but that his retention of them would do us considerable injury; that our treaty was known to all the world, and our publick faith pledged in their behalf; that his brother had co-operated with us; and to deceive him in such a tender point was to disgrace us as a nation.

He asked if I would certify that the treaty had been ratified; to which I consented, provided he would execute the third article. He replied that the acts of no individual should again involve him with us, and that the wishes of our government should be complied with.

I thanked him, and informed him that the wife of the bey and the other married sister were permitted to remain, at which the divan expressed much satisfaction.

On the 13th I waited on the minister to learn when they

would be ready to embark; and requested that their slaves, effects, &c. would not be withheld; to which he consented. I told him that I had now a favour to solicit, which was that some establishment should be made for the children. He assured me that he had made a considerable pecuniary sacrifice to release them; that the bey was much disposed to do something for the mother and brothers of his wife; and in order that no discontent might remain on our part, he would engage that they should be provided for, and that he would give something handsome towards it himself. I told him that he should not lose by his liberality, and that the expenses he had incurred would be remunerated him by the United States. The exact amount of his sacrifices will be ascertained, and I shall trust to his excellency the President to make good my assurances.

Captain Dent's orders being to sail in the evening, and it requiring some time to prepare and clothe the family, I could not avail myself of this opportunity of sending them to Syracuse. The same reason prevented my writing by the *Hornet*.

I have the honour to enclose you copies of my letters to commodore Campbell and his excellency Ahmet bashaw.

The minister Dghies holds his publick situation from policy, perhaps necessity. He is wealthy, and the greatest sufferer in all serious difficulties. He possesses considerable talents, and which I am sure will never be used to foment a war with any power. The concessions we have obtained here are unprecedented; and every circumstance tends to impress me with the belief that we are not placed beneath England or France. With profound respect, &c.

GEORGE DAVIS.

WHEREAS his excellency the bashaw of Tripoli has well grounded reasons to believe, if the wife and children of his brother should be delivered up to him immediately on his leaving his (the bashaw's) dominions, as expressed in the third article of the treaty of peace and amity concluded between the United States of America and the bashaw of Tripoli, on the 4th day of the present month, that he the said brother would engage in new operations of hostility against him to the disturbance of the internal tranquillity of his dominions: and the said United States, being willing to evince their good disposition to preserve the said treaty with sincerity, and that tranquillity should be secured in the dominions of the said bashaw, do hereby agree to a modification of the said article of the treaty aforesaid, so that the term of four years from the conclusion of said treaty shall be fixed for the exe-

cution of the engagement of the bashaw to deliver to his brother his wife and children ; during which time the said brother is to give evident proofs of his peaceful disposition towards the bashaw, and of his determination not to disturb the internal tranquillity of his dominions.

Given under my hand and seal at Tripoli, in Barbary,  
 [SEAL] this fifth day of June, in the year one thousand eight hundred and five. **TOBIAS LEAR,**

Commissioner of the United States of America for  
 concluding a Peace with the Bashaw of Tripoli.

*Extract of a Letter from Tobias Lear, Esq. Consul General of the United States at Algiers, to the Secretary of State. Syracuse Harbour, July 5, 1805.*

IN the forenoon of the 2d of June Mr. Nissen his Danish majesty's consul at Tripoli, came off to the Constitution, bringing a commission from the bashaw to negotiate with me on the articles of the treaty. As I had a sketch prepared, I communicated it to Mr. Nissen, who observed that there were some articles more favourable to the United States than were to be found in any treaty which the bashaw had with any other nation ; yet he would take them on shore and submit them to the bashaw. He did so, and returned on board again about four P. M. saying that the bashaw had acceded to the articles ; but was very desirous of having an article expressive of our determination to withdraw our forces, &c. from Derne, and that we should endeavour to persuade his brother to leave his dominions. To the first I could have no objection, as it would be a natural consequence of the peace ; but I insisted that if his brother should leave his territory he should have his wife and family restored to him. Mr. Nissen thought this latter clause would meet objections. However he took it on shore.

In the morning of the 3d of June Mr. Nissen came on board again and declared that the bashaw would not agree to deliver up the wife and children of his brother. I adhered to that part of the article ; and after a little time he went on shore, saying that if the bashaw still persisted in refusing that part of the article the white flag would be hauled down on shore. When Mr. Nissen had left us I told commodore Rodgers, and captain Smith of the Vixen, who was on board, that if the bashaw should persist in his opposition to that article, I would not suffer the business to be broken off and leave our countrymen in slavery, but would at all hazards take a boat and go on shore, if the white flag should be hauled down.

At four P. M. Mr. Nissen came off again with the seal of the bashaw to the preliminary articles ; but with a condition that time should be allowed for the delivery of the wife and family of his brother. I consented to it, and we went on board the *Vixen* to stand in to the harbour. When we were near the town we fired a gun, and hauled down the white flag. A salute of twenty-one guns was fired from the batteries, and answered by the *Constitution*. I went into the harbour in the *Constitution's* barge with the flag of the United States displayed ; and was received at the landing place by the American officers who had been in captivity with a sensibility better to be conceived than described. An immense concourse of people crowded the shore and filled the streets ; all signifying their pleasure on the conclusion of the peace.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS,  
RELATIVE TO CHESAPEAKE AND LEOPARD. DEC. 7, 1807.

HAVING recently received from our late minister plenipotentiary at the court of London a duplicate of despatches, the originals of which have been sent by the *Revenge* schooner not yet arrived, I hasten to lay them before both houses of Congress. They contain the whole of what has passed between the two governments on the subject of the outrage committed by the British ship *Leopard* on the frigate *Chesapeake*. Congress will learn from these papers the present state of the discussion on that transaction, and that it is to be transferred to this place by the mission of a special minister.

While this information will have its proper effect on their deliberations and proceedings respecting the relations between the two countries, they will be sensible that the negotiation being still pending, it is proper for me to request that the communications may be considered as confidential.

TH: JEFFERSON.

[The documents transmitted in the foregoing message are to be found in that of same date, Vol. VI. page 86.]

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO ENGLAND AND FRANCE. MARCH 22, 1808.

[Message, &c. recalled, and copy not to be found.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO ENGLAND AND FRANCE. MARCH 30, 1808.

[Message, &c. recalled, and not to be found: Two of the papers, however, were afterwards made publick. See message, April 2, 1808, Vol. VI. page 473.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
ENGLAND AND FRANCE. NOV. 8, 1808.

[Not to be published.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING  
REPORT OF SECRETARY OF STATE, AND DOCUMENTS, RELATIVE  
TO EAST FLORIDA. JAN. 14, 1813.

[Report not to be published. See Vol. IX. page 154.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
THE FLORIDAS. JAN. 26, 1813.

[Not published, as negotiations on the subject are still pending.]

**MESSAGE**

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
THE FLORIDAS. JAN. 27, 1813.

[Not published, as negotiations on the subject are still pending.]

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**MESSAGE**

FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING  
REPORT OF SECRETARY OF STATE RELATIVE TO THE FLORIDAS. FEB. 18, 1813.

[Report not published. See Vol. ix. page 206.]

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